

OCT 14 2020

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF VENTURA, VENTURA HALL OF JUSTICE

Red Mountain Asset Fund III, LLC

Plaintiff,

vs.

Channel, OXN LLC; and DOES 1 through 20,
inclusive.

Defendants.

CASE NO.

[Unlimited Jurisdiction; Damages over \$25,000]

COMPLAINT FOR DAMAGES

1. Breach of Contract
2. Unjust Enrichment

Plaintiff alleges:

FIRST CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

1. Plaintiff Red Mountain Asset Fund III, LLC ("Plaintiff") is, and at all times herein mentioned was, a limited liability company organized and existing pursuant to the laws of the State of Delaware and is authorized to do business and doing business in the County of Ventura, State of California, within this judicial district.

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1 2. Plaintiff is informed and believes and, upon that basis, alleges that
2 defendant Channel, OXN LLC is, and at all times mentioned herein was, a limited liability
3 company organized and existing pursuant to the laws of the State of Delaware doing business
4 in the County of Ventura, State of California, within this judicial district.

5
6 3. Plaintiff is unaware at this time of the true names and capacities of the
7 defendants sued herein as Does 1 through 20, inclusive, and therefore sues these defendants by
8 these fictitious names. Plaintiff will seek leave of court to amend this complaint to allege their
9 true names and capacities when the same have been ascertained, or at the time of trial.

10
11 4. Plaintiff is informed and believes and, upon that basis, alleges that at all
12 times herein mentioned, each of the defendants was the agent, servant, employee of each of the
13 remaining defendants, and in doing the things hereinafter alleged, was acting within the course
14 and scope of such agency, service, or employment, and with the permission and consent of his
15 co-defendants.

16
17 5. Plaintiff is the "Declarant" and the designated "Maintenance Owner"
18 under that certain Declaration of Covenants, Conditions, Restrictions, and Reciprocal Easements
19 dated July 31, 2016, and recorded on September 8, 2016, as Instrument No. 20160908-
20 00129534-0 in the Official Records of the County of Ventura, as amended by that certain First
21 Amendment to Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions
22 dated February 26, 2018, and recorded March 2, 2018, as Instrument No. 20180302-000242 in
23 the Official Records of the County of Ventura, as amended by that certain Second Amendment to
24 Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions dated March 7,
25 2018, and recorded on March 9, 2018 as Instrument No. 20180309-00027745-0 in the Official
26 Records of the County of Ventura, as amended by that certain Third Amendment to Declaration
27 of Reciprocal Easements, Covenants, Conditions and Restrictions dated September 26, 2018, and
28 recorded on November 16, 2018 as Instrument No. 20181116-00128458-0 in the Official

1 Records of the County of Ventura (collectively to referred to herein alternatively as the
2 "Declaration" or as the "CC&Rs") for the real property developed as a commercial shopping
3 center located in the City of Oxnard, County of Ventura, State of California (collectively, the
4 "Shopping Center") all as more particularly described in the Declaration. True and correct
5 copies of the recorded Declaration as amended are attached hereto collectively as Exhibit "1"
6 and are incorporated herein by reference. Plaintiff is also the owner of certain parcels within the
7 Shopping Center.

8
9 6. Defendant Channel, OXN LLC is the fee owner of certain property
10 parcel(s) within the Shopping Center commonly known as 1341 – 1361 W. Channel Islands
11 Blvd., Oxnard, CA 93003 (collectively "Parcel") and is designated as an "Owner" under the
12 Declaration. Defendant Channel, OXN LLC and Does 1 through 20 took ownership of the
13 Parcel subject to all terms of the Declaration.

14
15 7. Paragraph 4.2 of the Declaration provides:

16
17 "4.2 Assessments. All reasonable costs and expenses incurred by the Maintenance
18 Owner for the benefit of the Shopping Center under this Declaration which are not otherwise
19 allocated specifically to one or more Owners, including, without limitation, the costs and
20 expenses incurred by the Maintenance Owner under **Paragraph 4.1 and Paragraph 7.4** hereof
21 are hereinafter referred to as "Common Area Expenses". Common Area Expenses are a
22 continuing lien and assessment against the Parcels, and will be assessed against each Owner
23 and its respective Parcel in the same proportion based on the square footage of land area on
24 such Owner's Parcel as compared to the square footage of total land area of the Shopping
25 Center. Each Owner's share of Common Area Expenses is hereinafter referred to as a
26 "Proportionate Share". With respect to any particular component of Common Area Expenses,
27 the Maintenance Owner may exclude the land area of Parcel(s), the Owner(s) or Permittees of
28 which completely self-maintain with respect to such components of Common Area Expenses
to assure that one hundred percent (100%) of each assessment is allocated among the

1 remaining Owners.” (Emphasis added)

2
3 8. Paragraph 4.6 of the Declaration provides in pertinent part:

4
5 “4.6 Payment of Common Area Expenses. The Maintenance Owner shall initially
6 pay or cause to be paid all of the costs and expenses of maintaining, repairing, replacing,
7 operating, protecting and insuring the Common Area, subject to reimbursement as provided in
8 this Declaration or any other applicable agreement. The Owners shall pay their Proportionate
9 Share of Common Area Expenses in accordance with the following:

10
11 (a) The Owners shall, on or before the first day of each month, pay to the
12 Maintenance Owner an amount equal to 1 /12 of their Proportionate Share of the final
13 approved budget of Common Area Expenses for such calendar year (or the appropriate
14 fraction thereof in the case of a partial calendar year or a partial calendar month). ...” (Emphasis
15 added)

16
17 9. Paragraph 4.6 of the Declaration provides in pertinent part:

18
19 “7.4 Insurance for Common Area. The Maintenance Owner shall procure and
20 maintain commercial general liability insurance insuring against claims for bodily injury,
21 personal injury, death or property damage, occurring on or about the Common Areas, ...

22 ...

23 The costs and expenses incurred by the Maintenance Owner in connection with the
24 insurance described herein with respect to the Common Area (i) will be assessed against the
25 Owners and their respective Parcel(s) under Paragraph 4.2 above and included as
26 Common Area Expenses, ...” (Emphasis added)

1 10. Per Section 4 of the Declaration, Plaintiff, as the designated "Maintenance
2 Owner" of the Shopping Center, incurred commercially reasonable costs and expenses
3 (collectively, "Common Area Expenses") in causing the operation, maintenance, repair,
4 replacement, protection and insurance of the Common Area of the Shopping Center to be
5 performed.

6
7 11. The Proportionate Share of Common Area Expenses for the Shopping
8 Center for which defendant Channel, OXN LLC is responsible is 51.216%. Defendant's
9 proportionate share of monthly Common Area Expenses during the calendar year 2020 totals
10 \$9,012.00 per month (representing monthly CAM of \$8,393.25 + monthly insurance of
11 \$618.75).

12
13 12. Paragraph 10.1 of the Declaration provides in pertinent part:

14
15 "10.1 All Legal and Equitable Remedies Available. In the event of a breach or
16 threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions
17 or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by
18 injunction and/or all such other available legal and equitable remedies from the consequences
19 of such breach, including payment of any amounts due and/or specific performance."

20
21 13. Paragraph 10.2 of the Declaration provides in pertinent part:

22
23 "10.2 Self-Help. In addition to all other remedies available at law or in equity, upon
24 the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days
25 following written notice thereof by another Owner (unless, with respect to any such breach the
26 nature of which cannot reasonably be cured within such thirty (30) day period, the defaulting
27 Owner commences such cure within such thirty (30) day period and thereafter diligently
28 prosecutes such cure to completion), then the non-defaulting Owner shall have the right to

1 perform such obligation contained in this Declaration on behalf of such defaulting Owner and
2 be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof
3 together with interest at the prime rate charged from time to time by Bank of America, its
4 successors or assigns (or if it no longer exists or is no longer publishing its prime rate, then the
5 prime rate of the largest bank in California), but in no event more than the maximum rate of
6 interest allowed by law (the "Interest Rate")."

7
8 14. Defendants Channel, OXN LLC and DOES 1 through 20 have breached
9 the Declaration by failing to timely pay the monthly Common Area Expenses to Plaintiff after
10 written notice and demand to cure. On August 17, 2020, Plaintiff, through its authorized legal
11 counsel, sent written demand to defendants, and each of them, to cure the accrued and unpaid
12 Common Area Expenses due under the Declaration, payable through August 31, 2020, in the
13 sum of \$89,001.49. A true correct copy of Plaintiff's written notice of default dated August 17,
14 2020 is attached hereto as Exhibit "2" and is incorporated herein by reference. Plaintiff written
15 notice stated the amount of unpaid Common Area Expenses then due and required defendants,
16 and each of them, to pay and cure that amount within thirty (30) days pursuant to Paragraph
17 10.2 of the Declaration. More than thirty (30) days have elapsed since the service of Plaintiff's
18 written notice of default and demand for cure, but defendants, and each of them, failed to pay
19 Plaintiff the Common Area Expenses demanded in the written notice. Defendants, and each of
20 them, have not made any payment to Plaintiff concerning the Common Area Expenses since
21 Plaintiff's service of its written notice of default and demand for cure.

22
23 15. Defendants, and each of them, are in default under and have breached the
24 terms of the Declaration by failing to pay the Common Area Expenses following written notice
25 from Plaintiff. As a result of the conduct of defendants, and each of them, Plaintiff has been
26 damaged. Plaintiff is informed and believes and, upon that basis, alleges that its damages
27 include:
28

- 1 a. Unpaid Common Area Expenses under the Declaration through
2 August 31, 2020 in the sum of \$89,001.49.
- 3 b. Unpaid monthly Common Area Expenses under the Declaration at
4 a rate of \$9,012.00 per month accruing on the first (1st) day of each month for the period from
5 September 1, 2020 through the time of entry of judgment.

6

7 Plaintiff is unaware at this time of the exact amount of its damages and will seek leave of court
8 to amend this complaint to allege the same when it has been ascertained, or at the time of trial.
9 Plaintiff is informed and believes and, upon that basis, alleges that the amount of this additional
10 damage is within the jurisdiction of this court.

11

12 16. Plaintiff has previously demanded and by service of this complaint again
13 demands that defendants, and each of them, pay Plaintiff all sums due and owing under the
14 Declaration. Defendants, and each of them, have failed and refused to perform.

15

16 17. Plaintiff has performed all conditions, covenants, and promises required to
17 be performed on its part under the terms of the Declaration except as to such performance which
18 was prevented and/or excused by the conduct of defendants, and each of them.

19

20 18. Paragraph 12.1 of the Declaration provides:

21

22 “12.1 Attorneys' Fees. In the event a party institutes any legal action or proceeding
23 for the enforcement of any right or obligation herein contained, the prevailing party after a final
24 adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the
25 preparation and prosecution of such action or proceeding.”

26

27 19. Plaintiff has been compelled to commence litigation to enforce the
28 Declaration and recover all unpaid Common Area Expenses owing to Plaintiff under the

1 Declaration. Plaintiff therefore requests an award of reasonable attorneys' fees and costs of
2 suit.

3
4 **SECOND CAUSE OF ACTION**

5 (Against All Defendants for Unjust Enrichment)

6
7 20. Plaintiff incorporates by reference each and every allegation set forth in
8 Paragraphs 1 through 19 of this complaint.

9
10 21. Per Section 4 of the Declaration, Plaintiff, as the designated
11 "Maintenance Owner" of the Shopping Center, incurred commercially reasonable costs and
12 expenses (collectively, "Common Area Expenses") in causing the operation, maintenance, repair,
13 replacement, protection and insurance of the Common Area of the Shopping Center to be
14 performed.

15
16 22. Notwithstanding that Plaintiff incurred commercially reasonable costs and
17 expenses (collectively, "Common Area Expenses") in causing the operation, maintenance, repair,
18 replacement, protection and insurance of the Common Area of the Shopping Center to be
19 performed, defendants, and each of them, knew or should have known that they had no right to
20 receive the benefits of operation, maintenance, repair, replacement, protection and insurance of
21 the Common Area of the Shopping Center unless they paid the proportionate share of Common
22 Area Expenses to Plaintiff.

23
24 23. Defendants, and each of them, received and have retained the benefits of
25 operation, maintenance, repair, replacement, protection and insurance of the Common Area of
26 the Shopping Center without making any payment towards the proportionate share of Common
27 Area Expenses to Plaintiff.

1 24. Defendants, and each of them, have been unjustly enriched by receipt and
2 retention of the benefits of operation, maintenance, repair, replacement, protection and insurance
3 of the Common Area of the Shopping Center and in the circumstances defendants' receipt and
4 retention of such benefits would be inequitable.

5
6 25. Defendants, and each of them, have been unjustly enriched as follows:

7
8 a. Unpaid Common Area Expenses incurred by Plaintiff under the
9 Declaration through August 31, 2020 in the sum of \$89,001.49.

10 b. Unpaid monthly Common Area Expenses incurred by Plaintiff
11 under the Declaration at a rate of \$9,012.00 per month accruing on the first (1st) day of each
12 month for the period from September 1, 2020 through the time of entry of judgment.

13
14 Plaintiff is unaware at this time of the exact amount of its damages and will seek leave of court
15 to amend this complaint to allege the same when it has been ascertained, or at the time of trial.
16 Plaintiff is informed and believes and, upon that basis, alleges that the amount of this additional
17 damage is within the jurisdiction of this court.

18
19 **WHEREFORE**, Plaintiff prays for judgment against defendants, and each of
20 them, in an amount within the jurisdictional limits of this Court, as follows:

21
22 **A. ON THE FIRST CAUSE OF ACTION (Breach of Contract)**

23 1. For an award of unpaid Common Area Expenses through August 31, 2020 in
24 the sum of \$89,001.49.

25 2. For an award of unpaid monthly Common Area Expenses at a rate of
26 \$9,012.00 per month accruing on the first (1st) day of each month for the period from September
27 1, 2020 through the time of entry of judgment.

28 3. For an award of reasonable attorney's fees.

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- 4. For costs of suit incurred herein.
- 5. For prejudgment interest at the maximum legal rate.
- 6. For such other and further relief as the court deems just and proper.

B. ON THE SECOND CAUSE OF ACTION (Unjust Enrichment):

- 1. For an award of unpaid Common Area Expenses through August 31, 2020 in the sum of \$89,001.49.
- 2. For an award of unpaid monthly Common Area Expenses at a rate of \$9,012.00 per month accruing on the first (1st) day of each month for the period from September 1, 2020 through the time of entry of judgment.
- 3. For costs of suit incurred herein.
- 4. For prejudgment interest at the maximum legal rate.
- 5. For such other and further relief as the court deems just and proper.

Dated: October 5, 2020

MORASSE COLLINS & CLARK,
A Professional Corporation

By: Desmond J. Collins
Desmond J. Collins
Attorneys for Plaintiff

EXHIBIT “1”

FIRST AMERICAN TITLE INSURANCE COMPANY

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Lee Ann Hilliker
c/o Red Mountain Retail Group, Inc.
1234 E. 17th Street
Santa Ana, CA 92701

COPY of Document Recorded

20160908 00129534-0

Has not been compared with original.
Original will be returned when
processing has been completed.

Ventura COUNTY REGISTRAR-RECORDER

9-8-16 8am \$120.00

**DECLARATION OF
RECIPROCAL EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

807592

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Lee Ann Hilliker
c/o Red Mountain Retail Group, Inc.
1234 E. 17th Street
Santa Ana, CA 92701

**DECLARATION OF RECIPROCAL EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the "**Declaration**") is made this 31 day of July, 2016, by Red Mountain Asset Fund III, LLC, a Delaware limited liability company (the "**Declarant**").

RECITALS

A. Declarant is the owner of that certain real property situated in the City of Oxnard, County of Ventura, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Shopping Center**"). The Shopping Center currently consists of a single fee parcel of real property, and appurtenant non-exclusive right of way easement.

B. The Shopping Center as currently contemplated by Declarant is shown on the alternatives of the Site Plan (as hereinafter defined) attached hereto as Exhibit "B" and made a part hereof.

C. Declarant intends to use, operate, renovate and develop the Shopping Center as a retail and/or commercial site, which may include the subdivision of the Shopping Center into multiple parcels. Fee simple title to all or portions of the Shopping Center may from time to time hereafter be transferred and/or leased to third parties, and prior thereto, Declarant desires (i) to establish and subject each and every portion of the Shopping Center to the easements, covenants, conditions, restrictions, reservations, servitudes, assessments, liens and charges hereinafter set forth, and (ii) to provide for the use and maintenance of the Shopping Center as an integrated shopping center, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, it is declared, on behalf of all present and subsequent Owners (as hereinafter defined), that the Shopping Center and all present and future owners and occupants of the Shopping Center shall be and hereby are subject to the covenants, easements, restrictions, reservations, servitudes, assessments, liens and conditions hereinafter set forth in this Declaration, so that the Shopping Center shall be maintained, kept, sold and used in full compliance with and subject to this Declaration as follows:

AGREEMENTS

1. **Definitions.** For purposes hereof:

(a) The following persons and entities shall be individually referred to as an "Owner" and collectively as the "Owners": The fee owner of a Parcel (as defined below), and

the fee owner of any other Parcel(s) that may be annexed into the Shopping Center from time to time as allowed under this Declaration, and any and all successors or assigns of such persons or entities as the owner or owners of fee title to all or any portion of the Parcels covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such Parcels. Declarant is the fee owner of the Shopping Center on the date of this Declaration.

(b) The following shall individually be referred to herein as a "Parcel" and collectively as the "Parcels": the separately identified fee parcel of real property now constituting the real property subjected to this Declaration as described on Exhibit "A," any parcels annexed into the Shopping Center as allowed under this Declaration, and any parcel created upon any future subdivisions or lot line adjustments of the Shopping Center or of any annexed parcel.

(c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees, licensees and concessionaires of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term "Common Area" shall mean those portions of the Shopping Center that are outside of exterior walls of buildings or other structures from time to time located within the Shopping Center, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, nonexclusive monument, pylon and directional signs, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements. However, Common Area shall exclude exterior areas designated by Declarant from time to time for the exclusive use of a tenant or occupant of a Parcel, such as, but without limitation, drive through areas, outdoor seating and patio areas (while being exclusively used by a tenant), outdoor sales and/or display areas (while being exclusively used by a tenant), loading areas, cart storage areas and cart collection corrals, customer pick up areas, areas for installation of and alterations for purchased products and services from businesses allowed hereunder, and the like.

(e) The term "Annexed Parcel" shall mean all or any portion of the property or properties adjacent to the Shopping Center that Declarant elects to annex into the Shopping Center pursuant to a document recorded in the Official Records of Ventura County, California (the "Official Records") at any time and from time to time (including without limitation the property shown in the southwest corner of the Site Plan and marked "Not a Part"). Subject to the rights of the Fitness Tenant as described below and under the Fitness Lease, in the event an Annexed Parcel is annexed into the Shopping Center, Declarant shall have the right to reasonably approve of the location of any new building(s) on the Annexed Parcel and any modifications to the layout of the Common Area on the Annexed Parcel (which approval shall not be unreasonably withheld) so long as same are in compliance with applicable laws; provided, however, that the buildings and Common Area existing on any Annexed Parcel as of the date of this Declaration or at any time thereafter and before the date of annexation are deemed approved. If Declarant ever elects to annex a Parcel or Parcels into the Shopping Center such that same become an Annexed Parcel, then the Annexed Parcel shall be included in the definition of the Shopping Center under this Declaration. Until Declarant elects to annex the Annexed Parcel into the Shopping Center, such Annexed Parcel shall not be considered a part of the Shopping Center. Unless and until the Annexed Parcel is annexed into the Shopping Center, no occupant of the Annexed Parcel shall use the Shopping Center for access, parking or services. If Declarant elects to annex the Annexed Parcel into the Shopping Center, as a condition thereto, the Annexed Parcel shall be subject to this Declaration. Notwithstanding the foregoing, for so long as the lease, as amended (the "Fitness Lease"), between Declarant and Fitness International, LLC and its successors and assigns under the Fitness Lease (the "Fitness Tenant") is in effect, if Declarant or any persons or

entities controlling, controlled by or under the common control with Declarant (each, a "Declarant Affiliate") owns or leases any portion of the property shown in the southwest corner of the Site Plan marked "Not a Part" (the "Southwest Parcel"), then the portion thereof so owned or leased shall automatically be deemed annexed by Declarant as of the date acquired or leased by Declarant or a Declarant Affiliate.

(f) The term "Site Plan" shall mean the alternative site plans (individually and collectively) of the Shopping Center attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.

(g) The term "Declarant" shall mean Red Mountain Asset Fund III, LLC, a Delaware limited liability company, or its successors and assigns duly authorized under this Declaration. Any right or easement granted to or reserved in favor of Declarant also runs in favor of the agents, employees and contractors of Declarant designated by Declarant. If Declarant transfers its fee simple interest in any portion of the Shopping Center, such transfer shall not assign or transfer the rights of "Declarant" hereunder, and the assignment or transfer of the rights of "Declarant" hereunder shall only occur pursuant to a document expressly assigning the "Declarant's" rights hereunder to another Owner that is recorded in the Official Records. Any Owner who is expressly assigned Declarant's interests as Declarant hereunder pursuant to a document recorded in the Official Records, in accordance with the terms and conditions of this Declaration, shall also have the right to assign its interest as "Declarant" to any subsequent transferee of its fee interest in a Parcel if done expressly pursuant to a document recorded in the Official Records. If the approval or consent of Declarant is required hereunder at any time that "Declarant" consists of more than one Owner, same shall require the unanimous approval or consent of all Owners then constituting "Declarant." Any Owner constituting "Declarant" shall have the rights of Declarant hereunder only for so long as such Owner continues to own fee interest in at least one Parcel. If there is no longer a "Declarant" with respect to the "Shopping Center," then any matters to be consented to or approved by Declarant shall then require the approval of those Owners having the right to amend this Declaration pursuant to Paragraph 12.2 hereof.

2. Easements.

2.1 Grant of Reciprocal Non-Exclusive Easements. Subject to any express conditions, limitations or reservations contained herein and/or in any documents affecting the Shopping Center that are recorded in the Official Records as of the date of recordation of this Declaration, Declarant hereby grants, establishes, covenants and agrees that the Shopping Center, and all Owners of the Shopping Center and each of their Parcels, shall be benefited and burdened by the following nonexclusive, perpetual and reciprocal easements which are hereby imposed upon the Shopping Center and all present and future Owners of the Shopping Center. Each Owner shall have the right to allow any of its Permittees to use the easements for the purposes and subject to the terms and conditions described in this Paragraph 2:

(a) An easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area of the Shopping Center, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of the Shopping Center intended for such purposes, and to and from all abutting streets or rights of way furnishing access to the Shopping Center;

(b) An easement for the parking of vehicles in the parking areas designated as part of the Common Area of the Shopping Center, as such parking areas are indicated on the Site Plan and as the parking areas may be reasonably modified or removed from time to time by the Owner of the Parcel upon which the parking areas are located (the "Parking Easement"), provided that no Owner may remove or modify parking areas on its Parcel to an extent which causes that Parcel to be noncompliant with then applicable parking requirements (including Paragraph 3.3 hereof) and applicable laws, and provided further that Declarant's consent is first obtained for any reasonable modification or removal. Notwithstanding the foregoing, Declarant's consent shall not be required for any reasonable modification or removal of parking areas for purposes of (i) restriping to accommodate minor changes that do not result in a loss of the then-existing parking spaces such that it would be a violation of the Fitness Lease or the Smart & Final Lease (as defined in Exhibit "C" attached hereto) to the extent same are then in effect, or cause the Shopping Center to violate any laws or the parking requirements described in Paragraph 3.3 hereof, or (ii) as to the building areas on each Parcel, accommodating buildings or expansions thereof, as otherwise allowed hereunder. Subject to compliance with applicable law and obtaining the written approval of the Fitness Tenant while the Fitness Lease is in effect: (A) Declarant shall have the right to establish exclusive parking that is for the exclusive use and benefit of an Owner's Permittees as such Owner may designate, but not more than five (5) such exclusive parking spaces shall be permitted on any Parcel (except that Declarant shall have the right to establish the exclusive parking spaces identified on the Site Plan without the need to obtain the approval of the Fitness Tenant); and (B) limited time parking spaces. Such Owners shall also have the right to post signs allowed by law to identify such spaces as limited time parking spaces or exclusive parking spaces and to enforce such use of those designated parking spaces;

(c) An easement upon, under, over, above and across the Common Area of the Shopping Center for the discharge and drainage of storm water runoff, and to reasonably install, maintain, repair and replace storm water collection and distribution lines, conduits, pipes and other apparatuses under and across the Common Area. All lines, conduits, pipes and other apparatuses for water drainage shall be hereinafter called the "Water Drainage Facilities". The easement granted herein shall include the right of reasonable ingress and egress with respect to the Water Drainage Facilities as may be reasonably required to maintain and operate the same. Once constructed, (i) the Water Drainage Facilities shall not be modified, altered, relocated or otherwise changed, without the prior written consent of the Declarant; and (ii) each Owner shall operate and reasonably maintain, or cause to be operated and reasonably maintained, in good order, condition and repair, the Water Drainage Facilities located upon its Parcel and make any and all repairs and replacements that may from time to time be required with respect thereto;

(d) An easement under and across those parts of the Common Area that are not within any permissible building areas shown on the Site Plan, for the reasonable installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Area and each building from time to time located within the Shopping Center; provided that (i) the rights granted pursuant to such easements shall at all times be exercised in such a manner as not to interfere materially with the normal operation of a Parcel and the businesses conducted thereon, (ii) the exact location of any utilities shall be subject to the approval of the Owner(s) of the burdened Parcel(s) (provided that the location of any such utilities existing as of the date of recordation of this Declaration are hereby deemed approved), and (iii) except in an emergency, the right of any Owner to enter upon the Parcel of another Owner for the exercise of any right pursuant to such easements shall be conditioned upon providing reasonable prior advance

written notice to the other Owner as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and reasonably maintained below the ground level or surface of the Parcel (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Parcel). Notwithstanding anything to the contrary in the foregoing, any aboveground utilities installed prior to the date of recordation of this Declaration are hereby approved as currently existing;

(e) An easement for the incidental encroachment from the Common Area of one Parcel onto the Common Area of another Parcel by not more than two (2) feet of footings, screen walls, curbing, and light pole bases or standards as originally constructed in connection with the initial improvements of the Shopping Center; and

(f) An easement over the Common Area in the location(s) shown on the Site Plan (or such other location(s) as are approved in writing by the Declarant for the construction, reconstruction, replacement, operation, maintenance and repair of sign structures of the design, size and shape approved of in writing by Declarant. The easement granted herein shall further include the right of reasonable access over, under, upon and across the Common Area to reasonably install, replace, maintain, repair and operate any monument or pylon signs and utility lines, pursuant to the terms and conditions set forth in Paragraph 2.1(d) above, in order to provide such monument or pylon signs and all panels thereon with power to illuminate the same. Once constructed, the Owner of the Parcel on which each such monument or pylon sign is located shall thereafter reasonably maintain, operate, illuminate and repair such monument or pylon sign and utility line will be prorated based upon the sign panel size occupied by each tenant. An Owner may also include the name of the Shopping Center on any of the monument or pylon signs. The design and content of each sign panel on the monument or pylon signs shall be subject to the prior written approval of the Owner on whose Parcel the monument or pylon sign is located, and by Declarant. No signs, structures, landscaping or improvements shall be placed or maintained on the Common Area that obstruct or impair the visibility of the monument or pylon signs from adjacent streets and roads, except as required by governmental authorities or by law. Each Owner may charge its tenant(s) for the cost of the construction, reconstruction, replacement, operation, maintenance and repair of the monument or pylon sign(s) located on such Owner's Parcel pursuant to such Owner's lease with its tenant(s).

2.2 Grant of Exclusive and/or Nonexclusive Easements. Notwithstanding the grant of the foregoing nonexclusive easements, each Owner shall have the right, at its option, to use, and to allow its Permittees the right to use, the following exclusive (and/or nonexclusive, to the extent indicated below) easement areas, to the extent allowable by applicable laws and reasonably approved in writing by Declarant (Declarant shall have the right to disapprove same to the extent it would be prohibited by any lease):

(a) An easement for the use of those portions of the Common Area of the Shopping Center on such Owner's Parcel that are identified on the Site Plan as an "Outdoor Sales Area". The Outdoor Sales Area may be used exclusively by anyone designated by such Owner on whose Parcel the Outdoor Sales Area exists or nonexclusively (as determined by such Owner, in its sole and absolute discretion) for any purpose not otherwise prohibited by this Declaration or the Owner on whose Parcel the Outdoor Sales Area exists, including, but not limited to, the periodic display and/or sale of merchandise by the designated Permittee. The Owner on whose Parcel an Outdoor Sales Area is being used as such shall, either itself or through its Permittees, keep such Outdoor Sales Area clean and free of debris and shall

reasonably maintain and repair such Outdoor Sales Area at its (or its Permittees') sole cost and expense while it is being used for the purposes allowed under this subparagraph;

(b) An easement for the use of those portions of the Common Area of the Shopping Center on such Owner's Parcel that are designated from time to time by the Owner of such Parcel as an "Outdoor Seating Area". The Owner on whose Parcel an Outdoor Seating Area is located may place, or allow its Permittees to place, tables, chairs and related items in the Outdoor Seating Area for the exclusive and/or nonexclusive (as determined by such Owner, in its sole and absolute discretion) use of its customers and allow such customers to eat, drink, read and relax there. The Owner on whose Parcel an Outdoor Seating Area is being used as such shall, either itself or through its Permittees, keep such Outdoor Seating Area clean and free of debris and shall reasonably maintain and repair such Outdoor Seating Area at its (or its Permittees') sole cost and expense while it is being used for the purposes allowed under this subparagraph; and

(c) An easement for the use of shopping cart storage on those portions of the Common Area of the Shopping Center on such Owner's Parcel (the "Shopping Cart Area") that are identified on the Site Plan. The Shopping Cart Area may be used for the placement, pick up and drop off of shopping carts by the Owner on whose Parcel such Shopping Cart Area is located or by its designated Permittees. The Owner on whose Parcel a Shopping Cart Area is located and being used as such shall, either itself or through its Permittees, keep such Shopping Cart Area clean and free of debris and shall reasonably maintain and repair such Shopping Cart Area at its (or its Permittees') sole cost and expense.

Declarant covenants and agrees that the foregoing exclusive and non-exclusive easements are hereby imposed upon the Shopping Center and all present and future Owners of the Shopping Center. An Owner shall have the right to allow its Permittees to use such easements. Owner's Permittees shall be subject to the burdens of such easements.

2.3 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify, defend and hold the Owner whose Parcel is subject to the easement and its Permittees harmless from and against all claims, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees), demands, losses, actions and causes of action (collectively, "Claims") relating to accidents, injuries, losses, or damages of or to any person or property arising from the negligence or willful misconduct of such Owner having such rights and its contractors, employees, or agents.

2.4 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees, in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once the Water Drainage Facilities are installed pursuant to the easements granted in Paragraph 2.1(c) hereof, and/or utility lines, systems and equipment are installed pursuant to the easements granted in Paragraph 2.1(d) hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in the common area of shopping centers) shall be placed over or permitted to encroach upon such water drainage and utility installations. The Owner of the Parcel served by such installations shall not unreasonably withhold its

consent to the reasonable relocation of such installations requested by the Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as water drainage services or utility services, as applicable, to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this Paragraph 2.4 are complied with.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth herein, or to prosecute work on such Owner's Parcel if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work. Notwithstanding anything contained in this Declaration to the contrary, neither Owner nor its Permittees may undertake any work described in this paragraph (except normal minor repairs in the ordinary course which do not materially interfere with the business of the Owner or its Permittees, and except for otherwise permitted construction by an Owner on such Owner's Parcel that does not materially interfere with utility easements or ingress, egress or access) which is not of an emergency nature during the months of December or January unless the written consent of Declarant is first obtained.

3. Maintenance.

3.1 General. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain the same in a reasonably clean and neat condition and shall take such reasonable measures as are necessary to control grass, weeds, blowing dust, dirt, litter and debris.

3.2 Buildings and Appurtenances. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in this Paragraph 3.2 shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee.

3.3 Parking Restrictions. Each Parcel shall comply with applicable governmental parking ratio requirements (without use of a variance, unless Declarant approves such variance in writing) without taking into account the parking provided on another Parcel, such

that each Parcel shall be self-sufficient for vehicular parking unless otherwise approved in writing by Declarant; provided, however, for so long as the Fitness Lease is still in effect, in no event shall Common Area parking contain less than four (4) parking spaces for each one thousand (1,000) square feet of floor area in the Shopping Center. The area of a "Playland" associated with a fast food restaurant shall not be counted for purposes of satisfying parking ratios, if it is attached or in close proximity to the restaurant building. Except as required to comply with any laws, statutes, ordinances, rules, regulations or orders of governmental authorities now or hereafter in effect, and except as expressly permitted in this Declaration, there shall be no changes in the grade elevations in the parking areas on each Parcel of the Shopping Center without the prior written consent of Declarant.

3.4 Common Area. Once constructed, in the event of any damage or destruction of the Common Area, each Owner will repair, restore and rebuild (or cause any of its Permittees to do so) the Common Area on its Parcel to at least its condition prior to such damage or destruction. Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Area or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to Paragraph 2.1(a) shall not be permanently closed or materially impaired unless reasonable alternative access is available during operating hours of the Shopping Center during temporary closures; (ii) any driveways and ingress and egress thereto, and to and from the Shopping Center and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of Declarant; (iii) the same shall not violate any of the provisions and easements granted in Paragraph 2; (iv) the requirements of Paragraph 3.2 of this Declaration shall be complied with; and (v) all such changes shall be approved by Declarant in writing.

3.5 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein; provided, however, that to the extent any such utility or other installations jointly service more than one (1) Parcel, the maintenance of such joint utility or other installations shall be performed by the Maintenance Owner (as defined in Paragraph 4.8 below) or an Owner of a Parcel served thereby (at the Maintenance Owner's reasonable discretion) and the cost thereof reasonably prorated by the Maintenance Owner and proportionately charged to each Owner whose Parcel is served thereby as reasonably determined by the Maintenance Owner.

4. Management.

4.1 Maintenance Obligations of Maintenance Owner. Except as otherwise expressly provided herein, the Maintenance Owner (as defined in Paragraph 4.8 below) shall, at the cost and expense of the Owners as set forth in Paragraph 4.2 below, perform or cause to be performed in the Shopping Center, the following:

(a) Drive and Parking Areas. Providing adequate lighting of the Common Area when necessary during the business hours of the Owners and their Permittees and for sixty (60) minutes thereafter, for cleaning, promptly removing snow and ice from, supervising, keeping available, maintaining, repairing and replacing all paved surfaces and curbs so that same are kept in a smooth and evenly covered condition, including, without limitation, replacement of pavement, base, skin patch, resealing and resurfacing.

(b) Debris and Refuse. Periodic removal of all papers, debris, filth, refuse, ice and snow (2" on surface), including vacuuming and broom or blower sweeping, to the extent necessary to keep the Common Area in a good, clean and orderly condition. All sweeping shall be at appropriate intervals during such times as shall not materially interfere with the conduct of business or use of the Common Area by the Owners or their Permittees. The cost of the removal of trash, debris, filth, refuse, ice and snow from the Common Area shall be part of the Common Area Expenses (defined below), although the cost of removal of trash and debris from within buildings or from trash receptacles on a Parcel that are not for the common use of all occupants of the Shopping Center shall be excluded from Common Area Expenses and shall be the separate responsibility of the Owner of the Parcel on which such buildings are located.

(c) Non-Occupant Signs and Markers. Maintaining, cleaning, and replacing any appropriate directional, stop, limited time parking, and handicapped parking signs; restripe parking lots and drive lanes as necessary to maintain parking space designation and traffic direction; and keep clearly marked fire lanes, loading zones, no parking areas and pedestrian crosswalks.

(d) Lighting. Maintaining, cleaning, repairing and replacing Common Area lighting facilities, including, without limitation, light standards, wires, conduits, lamps, ballasts and lenses, time clocks and circuit breakers. Under canopy or building lighting shall not be considered a Common Area maintenance item, but shall be reasonably maintained by the respective Owner of that Parcel. If any Owner or its Permittees shall remain open for business during all or any of the hours between 11:00 p.m. and 6:00 a.m. ("after hours"), then such Owner(s) shall from time to time when billed by the Maintenance Owner, but not more often than once each month, pay to the Maintenance Owner a pro rata share of the cost of after-hours lighting of the parking areas; provided, however, that for so long as the Fitness Lease is effective, after hours shall be the period of 12:00 a.m. to 4:00 a.m. unless different after hours are agreed to in writing by the Fitness Tenant. Each Owner's pro rata share thereof shall be equal to the cost of such after-hours lighting multiplied by a fraction the numerator of which shall be the square foot floor area of all businesses on such Owner's Parcel open for business during after-hours and the denominator of which shall be the square foot floor area of all businesses in the Shopping Center open for business during after hours, prorated for partial periods of operation during after-hours.

(e) Landscaping. Maintaining and replacing all landscape planting, trees and shrubs in an attractive and thriving condition, trimmed to avoid interference with the use or visibility of canopies or signs on the exterior of buildings located within the Shopping Center, and weed free; maintaining and replacing landscape planters, excluding, however, those located within sidewalks and other areas adjacent to exterior walls of buildings (which shall be reasonably maintained by the respective Owner of that Parcel); maintaining, repairing and replacing landscaping irrigation systems and modifying the irrigation systems to satisfy governmental water allocation or emergency requirements. Any new installation of landscaping, planters, irrigation systems and the like which are required in connection with the remodeling, expansion, demolition and/or rebuilding of buildings shall be paid for by the Owner of the Parcel on which such building is located, but maintenance, repair and replacement of such new installations shall be performed by the Maintenance Owner pursuant to this Paragraph 4.

(f) Common Utility Lines; Free-Standing Signs. Cleaning, maintaining, repairing and replacing any and all utility lines serving the Common Area and paying the cost of usage of utilities serving the Common Area, and maintaining, repairing, replacing and operating nonexclusive free-standing signs and utilities servicing them, to the extent not expressly

provided in this Declaration as an obligation of the Maintenance Owner or a right of the Maintenance Owner to do so that is exercised by the Common Maintenance Owner.

(g) Obstructions. Keeping the Common Area free from any obstructions including those caused by the sale or display of merchandise, unless such obstruction is permitted under the provisions of this Declaration.

(h) Sidewalks. Maintaining, cleaning, repairing and replacing of all sidewalks, including those adjacent and contiguous to buildings located within the Shopping Center. Sidewalks shall be steam cleaned and swept at appropriate intervals at such times as do not materially interfere with the conduct of business or use of the Common Area.

(i) Supervisory Personnel. Providing professional supervisory or security personnel for the Common Area, if all the Owners determine that the same is reasonably required.

(j) Compliance With Law. Operating and maintaining the Common Area in compliance with all applicable governmental laws, rules, regulations, ordinances and the provisions of this Declaration.

Notwithstanding anything to the contrary contained herein, the Maintenance Owner shall not start or conduct construction with respect to its obligations pertaining to the Common Area under this Article 4 (as opposed to the initial redevelopment of the Shopping Center by the Declarant or another Owner who is also currently the Maintenance Owner) during the months of December or January of any year, except in the event of an emergency or as required by law or legal action.

Notwithstanding anything to the contrary contained herein, each Owner shall reasonably maintain and repair, at its sole cost and expense, in a clean, slightly and safe condition, and any exterior shipping/receiving dock area, truck ramp or truck parking area, "Recycling Center" (i.e., a recycling center for the collection of items intended for recycling, such as (but not limited to) newspapers, bottles, and aluminum cans), drive thru lanes or drive up facilities, refuse, compactor or dumpster area located on its Parcel, landscape planters within sidewalks and other areas adjacent to exterior walls of buildings, and such sidewalks adjacent and contiguous to the building(s) on such Owner's Parcel that are used exclusively by such Owner or its tenant(s). Recycling Centers shall be in the location(s) approved by Declarant.

4.2 Assessments. All reasonable costs and expenses incurred by the Maintenance Owner for the benefit of the Shopping Center under this Declaration which are not otherwise allocated specifically to one or more Owners, including, without limitation, the costs and expenses incurred by the Maintenance Owner under Paragraph 4.1 and Paragraph 7.4 hereof are hereinafter referred to as "Common Area Expenses". Common Area Expenses are a continuing lien and assessment against the Parcels, and will be assessed against each Owner and its respective Parcel in the same proportion based on the square footage of land area on such Owner's Parcel as compared to the square footage of total land area of the Shopping Center. Each Owner's share of Common Area Expenses is hereinafter referred to as a "Proportionate Share". With respect to any particular component of Common Area Expenses, the Maintenance Owner may exclude the land area of Parcel(s), the Owner(s) or Permittees of which completely self-maintain with respect to such components of Common Area Expenses to assure that one hundred percent (100%) of each assessment is allocated among the remaining Owners.

4.3 Management Fee. The Maintenance Owner may charge, as part of Common Area Expenses, a reasonable management fee (whether payable to the Maintenance Owner and/or to a third party designated by the Maintenance Owner) for supervision and overhead, but tenants under leases of portions of the Shopping Center shall only pay such management fee to the extent their respective leases so allow.

4.4 Limitation on Common Area Expenses. The Maintenance Owner shall include in Common Area Expenses only amounts necessary for the operation, maintenance, repair, replacement, protection and insurance pertaining to the Common Area and will use commercially reasonable efforts to keep Common Area Expenses to a minimum. Without limiting Common Area Expenses that may be excluded or limited from being paid by tenants under leases or other written agreements between an Owner and its tenants, Common Area Expenses shall not include amounts expended for:

(a) any capital improvements made to the Common Area without the prior written consent of the Declarant, but replacements of existing improvements may be included in Common Area Expenses without prior consent of Owners if they substantially conform to the plans and specifications for the improvements being replaced;

(b) any charge for depreciation, interest or amortization;

(c) any of the Maintenance Owner's expenses for office overhead, professional services, consultants' or bookkeeping services, travel costs, salaries and benefits of clerical and administrative personnel;

(d) equipment or property to the extent not used in connection with the maintenance or repairs of the Common Area;

(e) management or supervisory fees (however designated) payable to third parties with whom the Maintenance Owner may contract for the general management or supervision of the Common Area (other than the reasonable management fee described in Paragraph 4.3 above); or

(f) real property taxes or assessments.

4.5 Budget Approval. At least sixty (60) days prior to the beginning of each calendar year, the Maintenance Owner will submit to the Owners for their approval a budget of the anticipated Common Area Expenses for such year, together with such back-up material as is reasonably necessary to substantiate the same. To the extent such budget provides for certain materials or services to be provided by one contractor or supplier for property in addition to the Common Area, such back-up material shall include the basis for the allocation of a portion of the total cost to Common Area Expenses. If an Owner disapproves any portion of the proposed budget, it shall set forth in reasonable detail in writing its grounds for disapproval. The Maintenance Owner and such Owner shall then negotiate in good faith to establish a final approved budget. The Maintenance Owner shall operate, maintain, repair, replace, protect and insure the Common Area in accordance with the final approved budget and shall not include in Common Area Expenses any material expense not included in the final approved budget without the written approval of the Owners given prior to the expenditure; provided, however, that otherwise permissible expenses not included in the final approved budget shall be Common Area Expenses to the extent they do not in the aggregate exceed ten percent (10%) of the final approved budget. The Maintenance Owner shall also have the right to make emergency repairs to the Common Area to prevent injury or damage to persons or

property, and the reasonable cost thereof shall be included in Common Area Expenses whether or not theretofore approved by the Owners. The Maintenance Owner shall, however, use reasonable efforts to inform the Owners of the emergency at the earliest possible time, and obtain their consent to make repairs.

4.6 Payment of Common Area Expenses. The Maintenance Owner shall initially pay or cause to be paid all of the costs and expenses of maintaining, repairing, replacing, operating, protecting and insuring the Common Area, subject to reimbursement as provided in this Declaration or any other applicable agreement. The Owners shall pay their Proportionate Share of Common Area Expenses in accordance with the following:

(a) The Owners shall, on or before the first day of each month, pay to the Maintenance Owner an amount equal to 1/12 of their Proportionate Share of the final approved budget of Common Area Expenses for such calendar year (or the appropriate fraction thereof in the case of a partial calendar year or a partial calendar month). Alternatively, Maintenance Owner shall have the right to bill each Owner for its Proportionate Share of Common Area Expenses and the management fee as such costs are incurred (but no more often than monthly). If any utilities servicing the Common Area are not separately metered, then the Maintenance Owner shall reasonably allocate the cost of utilities supplied for the Common Area, on the one hand, and the portion of the Shopping Center serviced by the joint meter(s), on the other hand. Each Owner whose Parcel is serviced by the joint meter(s) shall pay to the Maintenance Owner the balance of the cost of utilities supplied that is not applicable to the Common Area prior to delinquency, in addition to such Owner's Proportionate Share of the cost of utilities applicable to the Common Area.

(b) The Maintenance Owner shall, within one hundred eighty (180) days after the end of each calendar year, submit to the Owners a written itemized statement, together with complete back-up material and cost breakdowns, of the actual Common Area Expenses for the year, including a calculation of the management fee. With such statement the Maintenance Owner shall pay to the Owners the amount, if any, by which the Owners' Proportionate Share of the Common Area Expenses actually expended is less than the aggregate amount of the payments made by the Owners for the year. Should the Owners have paid less than their Proportionate Share of Common Area Expenses actually expended during the year, the Owners shall pay the Maintenance Owner the amount of any such deficiency within thirty (30) days after receipt of such statement. Each Owner shall pay the costs or expenses shown on the statement of Common Area Expenses and the management fee within thirty (30) days after receipt of the statement. Each Owner shall have the right to object in writing to any cost or expense shown on such statement within thirty (30) days after receipt of the statement, setting forth in reasonable detail the grounds for such Owner's objections. If an Owner so objects, such Owner shall pay within the thirty (30) day period any amounts due from Owner for the costs and expenses to which such Owner does not object. An Owner shall also pay for the costs and expenses to which it objects, which payment shall be deemed to be under protest. The Maintenance Owner and the Owners shall cooperate reasonably in settling any dispute relating to Common Area Expenses. Upon the final determination of such dispute, the Maintenance Owner or an Owner, as the case may be, will then promptly make any additional payment owing to the other party, with interest (accruing from the 30th day after the statement was delivered to such Owner).

(c) Nothing herein shall preclude any different agreement between an Owner and the Maintenance Owner or between an Owner and its tenants respecting the payment of Common Area Expenses or similar expenses by such Owner or its tenants, but such different agreement shall not have any effect on the other Owners or limit the Maintenance Owner's

obligations hereunder to the other Owners to operate and maintain the Common Area as set forth in this Declaration.

4.7 Record Keeping/Dispute Resolution. The Maintenance Owner will keep accurate books and records relating to the costs and expenses incurred by the Maintenance Owner in connection with the performance of the Maintenance Owner's obligations under Paragraphs 4.1 and 7.4 hereof, which will be available at the office of the Maintenance Owner for inspection and copying by any Owner at its expense during reasonable business hours. Such books and records will be kept for at least three (3) years after the end of the year to which they apply. Any Owner may, up to three (3) years after receiving any such statement, inspect or audit the Maintenance Owner's books and records to verify the propriety of any charge. The Maintenance Owner shall make all necessary arrangements with all contractors whose charges are included in Common Area Expenses so that an Owner may also, if it desires, inspect or audit their charges. If such an inspection or audit shows that the Maintenance Owner has incorrectly charged one or more Owners by more than five percent (5%) of the correct amount, then the Maintenance Owner shall pay the reasonable expenses incurred in such inspection or audit. If such inspection or audit shows that the Maintenance Owner has not correctly charged for Common Area Expenses, an adjustment (with interest) will be made so that each Owner will have paid its correct Proportionate Share of Common Area Expenses. Any claim or cost item shall not be collectible from any Owner if it is not included on a statement to such Owner within three (3) years after the end of the calendar year in which it is paid by the Maintenance Owner.

4.8 Maintenance Owner. The term "Maintenance Owner" shall mean (i) so long as Declarant owns any part of the Shopping Center, Declarant, or (ii) the Owner who holds fee title to the largest square footage of land area in the Shopping Center.

4.9 Delegation by Maintenance Owner. The Maintenance Owner shall have the right, from time to time, to select another individual, corporation, partnership, limited liability company, association, trust or other legal entity, or combination thereof (each, a "Person") or Persons to perform any one or more of its obligations under this Paragraph 4 with respect to the Common Area; provided, however, that such Person shall expressly assume and agree to perform the obligations hereunder so delegated, and the Maintenance Owner shall remain responsible for the performance of such obligations by such Person. If the Maintenance Owner selects another Person to perform any one or more of its obligations under this Paragraph 4 with respect to the Common Area, such Person shall be a recognized professional commercial property management company (which may be an affiliate of Maintenance Owner), and the Maintenance Owner shall notify the Owners at least thirty (30) days in advance of the commencement of such performance by such Person. The Maintenance Owner may hire companies affiliated with it to perform one or more of its obligations under this Paragraph 4 with respect to the Common Area, but only if the rates charged by such companies are competitive with those of other companies furnishing similar services in the metropolitan area in or about the Shopping Center. Each Owner hereby grants to the Maintenance Owner, its agents, employees and contractors, a license to enter upon its Parcel to discharge such duties with respect to the Common Area.

4.10 Takeover of Maintenance by other Owners. If any Owner at any time, or from time to time, is reasonably dissatisfied with the quality or cost of the Maintenance Owner's operation, maintenance, repair, replacement and protection of the Common Area, such Owner shall have the right to give the Maintenance Owner notice of such dissatisfaction, specifying why the Maintenance Owner's performance is unsatisfactory. If, thirty (30) days after the date of such notice, the Maintenance Owner's performance shall continue to be unsatisfactory,

such Owner shall have the right (but not any obligation) to have another Person that is a recognized professional commercial property management company take over the operation, maintenance, repair, replacement and protection of the Common Area from the Maintenance Owner. Such takeover shall be effective on the first day of the next succeeding calendar month if the Maintenance Owner itself is performing the operation and maintenance of the Common Area, or if the Maintenance Owner has hired a Person to perform the same, then upon the expiration of the contract with such Person (or if the Person is in breach of such contract, then upon termination of the contract pursuant to its terms). Furthermore, if the Maintenance Owner's failure to perform pertains to the failure to pay amounts owing as Common Area Expenses and/or failure to properly record-keep or make books and records available under Paragraph 4.7 hereof, or fails to pay any amount owing to another Owner, then any other Owner electing to take over the operation, maintenance, repair, replacement and protection of the Common Area may also take over such obligations that the Maintenance Owner is failing to perform as aforesaid. In that case, the Owner taking over such obligations shall be substituted for the Maintenance Owner hereunder for the period of time of the takeover. Such Owner may at any time, upon not less than sixty (60) days' notice to the Maintenance Owner, return the obligation to operate, maintain, repair, replace and protect the Common Area back to the Maintenance Owner, and the rights and obligations of the Maintenance Owner and such Owner shall then be as they were before such Owner's takeover. This Paragraph does not limit any other rights or remedies such Owner may have for the Maintenance Owner's default.

4.11 Emergency Self-Help by other Owners. In an emergency, the Owners (other than the Maintenance Owner) shall have the right, but not the obligation, to perform maintenance, repairs and other activities in the Shopping Center that would otherwise be the Maintenance Owner's obligation. The Owners shall have the right to take such emergency action with only such notice (if any) as is practical, in such Owners' commercially reasonable business judgment. The Maintenance Owner shall, upon demand, reimburse the Owners for the Owners' reasonable expenses with respect to any such maintenance, repair and other activities, with interest thereon (less the Owners' Proportionate Share, if the cost of the work would be included in Common Area Expenses). The Owners' rights set forth in this Paragraph are in addition to, and not in lieu of, any other rights at law and in equity and as set forth elsewhere in this Declaration.

5. Construction of Improvements. Every building (including its appurtenant Common Area improvements), now or in the future constructed within the Shopping Center, shall be constructed, operated and maintained so that the same is in compliance with all applicable governmental requirements. The Maintenance Owner shall not modify or consent to a Permittee modifying the facades in the Shopping Center unless the Maintenance Owner obtains the prior written consent of the Declarant.

6. Restrictions.

6.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of the Shopping Center shall be used, directly or indirectly, for purposes of a cocktail lounge, bar or tavern (except those that are currently existing in the Shopping Center, as they may be relocated, replaced, modified, extended and renewed, and any successors or assigns thereto), disco, bowling alley, movie theatre, pinball or video arcade (such as a Chuck E. Cheese, or a Discovery Zone, but

notwithstanding the foregoing, if any Owner, tenant or other occupant operating in the Shopping Center has video or pinball machines located at their premises as an incidental part of the primary use of the premises, then such incidental use shall not be deemed to be a prohibited use), Chuck E. Cheese, Discovery Zone or uses similar to those businesses as they are being operated on the date hereof, pool hall, billiard parlor, skating rink, roller rink, adult book store, adult theatre, adult amusement facility, so called "adult massage parlor", any facility selling or displaying satanic or pornographic materials, second hand store, used clothing or thrift store, funeral home, tattoo or piercing parlor, church or meeting hall, coin-operated laundry, auction house, flea market, adult educational center offering onsite classes or training facility (except incidental to a retail use), blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles (but a car rental agency is permissible so long as all but one of its rental cars are parked off-site), any industrial use, any manufacturing facility, car wash or gas station, auto dealership or repair shop (but a car rental agency is permissible so long as all but one of its rental cars are parked off-site, and an auto parts store is permissible so long as no repairs are performed on-site), assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling on the Shopping Center of hazardous materials or underground storage tanks in violation of law, any office use (except incidental to a retail use and except as otherwise provided below), any use which creates a nuisance, or any use which would violate, suspend, or void any policy or policies of insurance. Notwithstanding the foregoing restriction on office use, the use of any portion of the Shopping Center for medical, dental, attorney, real estate, escrow, insurance, brokerage, title company or other office operations providing services to the public that are being conducted in similar shopping centers shall not be deemed office use.

6.2 Prohibited Uses. Each Owner agrees that it will not use its Parcel or lease its Parcel or any portion thereof to any person or entity for a purpose that is in violation of the uses prohibited by the provisions contained in Exhibit "C" (each, a "Prohibited Use"), so long as the Prohibited Use remains effective under the lease or other agreement establishing it and any extensions or renewals thereof.

6.3 The exclusive and prohibited use rights and restrictions on use described or referenced above or which may hereafter be effective pursuant to this Paragraph 6.3 are collectively referred to herein as the "Use Restrictions." Declarant shall have the right to modify this Declaration to include additional Use Restrictions or modify the Use Restrictions then in place to protect a tenant or Owner of a Parcel, and upon recording of such modification, all Owners and Permittees (other than the Fitness Tenant) shall be bound by such Use Restrictions, as modified; provided, however, that such modified Use Restrictions shall not prohibit a use then being conducted at the Property that was not prohibited or restricted prior to commencement of such use, for so long as such use continues (including temporary periods of closure for repairs, remodeling, renovations, restorations, rebuilding and other reasons beyond the reasonable control of the person or entity conducting such use, financial inability to perform excepted). Notwithstanding anything to the contrary contained above, the operation of a health and fitness facility of the type and kind contemplated by the Fitness Lease does not and will not be deemed to violate any Use Restrictions or any other restrictions on use within the Shopping Center so long as the Fitness Lease is in effect.

6.4 Subject to the terms provided herein, each Owner agrees that it will not use its Parcel or allow its Permittees to use its Parcel to violate any of the Use Restrictions. In the event of a violation or threat thereof of any of the provisions of this Paragraph 6, each Owner agrees that such violation or threat thereof shall cause the non-defaulting Owner and/or its Permittees to suffer irreparable harm and such non-defaulting Owner and its Permittees shall

have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of this Paragraph 6, the non-defaulting Owner, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive and other equitable relief to enjoin a violation of this Paragraph 6, or a threatened violation hereof.

6.5 In addition to the Use Restrictions, for so long as the Fitness Lease is effective, "Pad 1", "Existing Pad 2" and "Existing Pad 3", as identified on the Site Plan (each of which is sometimes referred to herein as a "Pad" and all together as the "Pads"), shall be subject to the limitations and restrictions set forth below, unless the Fitness Tenant otherwise agrees in writing:

(a) Height/Architectural Feature Limitation – Building walls to parapet/architectural elements on the Pads shall not exceed the following:

- (i) Pad 1 – a single story of twenty-four feet (24') in height from finished grade;
- (ii) Existing Pad 2 – a single story of twenty-two feet (22') in height from finished grade; and
- (iii) Existing Pad 3 – a single story of twenty-four feet (24') in height from finished grade.

(b) Size Limitation – No building on a Pad shall exceed the square footage of the Pad building which exists as of the date of this Declaration, which sizes are designated on the Site Plan.

(c) Proximity Restriction – No building (including architectural elements) on a Pad shall be located other than in their locations depicted on the Site Plan.

7. Insurance.

7.1 Throughout the term of this Declaration, each Owner shall procure and maintain (or cause any of its Permittees to procure and maintain) special form coverage insurance covering the improvements in the Common Area on its Parcel at full replacement value (less foundations) with companies authorized to do business in California. Throughout the term of this Declaration, each Owner shall also procure and maintain commercial general liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in Paragraph 2.3 above), death, or property damage occurring upon such Owner's Parcel (which insurance, as it relates to the Common Area or such Owner's Parcel, will be secondary to the insurance to be maintained by the Maintenance Owner under Paragraph 7.4 below), with single limit coverage of not less than Two Million Dollars (\$2,000,000.00) per occurrence or Five Million Dollars (\$5,000,000.00) aggregate, including umbrella coverage, if any, and naming as additional insureds each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof). The liability limits described herein may be increased from time to time as reasonably determined by Declarant based on insurance coverage carried by reasonable and prudent owners of like property in metropolitan Ventura County, California.

7.2 Any Owner (or Permittee of such Owner responsible for carrying the insurance required by this Declaration) having a reasonably verifiable tangible net worth in excess of \$100,000,000.00, may self-insure. Upon reasonable request, each Owner must furnish to the

requesting Owner certificates of insurance or other reasonable evidence indicating that insurance meeting the requirements hereof has been obtained and is in full force and effect, or in the case of self-insurance, reasonable evidence substantiating a tangible net worth in excess of \$100,000,000.00 (e.g., audited financial statements prepared by a reputable national accounting firm in accordance with generally accepted accounting principles consistently applied, or an annual SEC Form 10K report if such Owner or Permittee is publicly traded on a national securities exchange). By self-insuring, an Owner or Permittee (as applicable) agrees to make payment in the event of loss at such times, in such amounts, and to such person(s) as would an insurance company authorized to do business in California having a rating in Best's Insurance Guide of A-/IX or better, it being the intention in permitting self-insurance hereunder that the same be equivalent to the third party insurance coverage otherwise required under this Paragraph 7. Self-insurance shall be treated as full insurance for purposes of this Declaration.

7.3 Each Owner and each tenant or other occupant taking subject to this Declaration hereby releases all Owners and their respective tenants from any and all liability or responsibility (to them or anyone claiming by, through or under them by way of subrogation or otherwise) for any loss or damage to any property (real or personal) caused by fire or any other insured peril covered by any insurance policies for the benefit of the releasing person or entity (or such policies as were required to be obtained hereunder, including, without limitation, coverage by self-insurance), even if such loss or damage shall have been caused by the fault or negligence of an Owner or its respective tenants. The release contained in this Paragraph 7.3 shall not be limited by the amount of insurance carried or required to be carried under this Declaration or by any deductibles applicable thereto or invalidated by a party's failure to carry insurance. Each Owner, tenant and occupant agrees to notify its insurance carrier(s) that the foregoing waiver of subrogation is contained herein and to obtain from such carrier(s) a waiver of subrogation endorsement denying such carrier(s) any subrogation rights against the Owners or their respective tenants that might otherwise arise by virtue of the payment of a loss covered by such insurance.

7.4 Insurance for Common Area. The Maintenance Owner shall procure and maintain commercial general liability insurance insuring against claims for bodily injury, personal injury, death or property damage, occurring on or about the Common Areas, with combined single limit coverage of not less than Two Million Dollars (\$2,000,000) per occurrence or Five Million Dollars (\$5,000,000) aggregate, or such higher amounts of coverage as all the Owners may from time to time reasonably designate (but without obligation to do so) based on insurance coverage carried by reasonable and prudent owners of like property in metropolitan Ventura County, California. Such policy of commercial general liability insurance will name each Owner as an additional insured (on ISO Endorsement CG 2026, or its equivalent), provided that the Maintenance Owner has been supplied with the name and address of such additional insureds in the event of a change therein, and, as to the Common Area only, will be considered primary and not contributing with any insurance to be maintained by an Owner under other subparagraphs of this Paragraph 7. The Maintenance Owner will, upon request from any other Owner, furnish to the requesting Owner evidence as to such insurance.

The costs and expenses incurred by the Maintenance Owner in connection with the insurance described herein with respect to the Common Area (i) will be assessed against the Owners and their respective Parcel(s) under Paragraph 4.2 above and included as Common Area Expenses, or (ii) at the Maintenance Owner's option, will be charged directly to the Owners as incurred and each Owner shall reimburse the Maintenance Owner such costs and expenses incurred within thirty (30) days after receipt of written notice and reasonable evidence

of the costs and expenses so incurred. If the Maintenance Owner procures a separate policy of insurance covering nothing other than the Shopping Center, then the cost of that will be included in Common Area Expenses; however, if such policy provides other or additional insurance than the Common Area insurance required hereby, then the Maintenance Owner shall obtain from the insurance company a written apportionment showing the portion of the cost of such policy that provides only the coverage of the Common Area required hereby, and only that portion of such cost will be included in Common Area Expenses.

8. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel, including any portion of the Parcel which constitutes Common Area.

9. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Shopping Center. No easements, except those expressly set forth in Paragraph 2, shall be implied by this Declaration.

10. Remedies and Enforcement.

10.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

10.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by another Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such thirty (30) day period, the defaulting Owner commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion), then the non-defaulting Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Bank of America, its successors or assigns (or if it no longer exists or is no longer publishing its prime rate, then the prime rate of the largest bank in California), but in no event more than the maximum rate of interest allowed by law (the "Interest Rate").

10.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner in enforcing any payment in any suit or proceeding under this Declaration shall be assessed against the defaulting Owner in favor of the prevailing party and shall constitute a lien (the "Assessment Lien") against the Parcel of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the County Recorder of Ventura County, California; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the County Recorder of Ventura County, California prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the

defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien.

10.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

10.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration.

10.6 Mortgagee Protection Provision. Notwithstanding any terms in this Declaration to the contrary, each Owner hereby agrees that any mortgage, deed of trust, ground lease, or other instrument given as security for the repayment of a loan in favor of such Owner (collectively "Deed of Trust"), which Deed of Trust is recorded as a lien against all or part of the Shopping Center, shall at all times remain superior to and have priority over any liens existing on the Shopping Center by virtue of or arising out of a breach of any covenant, condition or restriction contained in this Declaration, and the existence and enforcement of this Declaration shall not render invalid or defeat the lien of the Deed of Trust; provided, however, that in every respect (other than monetary liens), the Deed of Trust shall be junior and subordinate to this Declaration and the provisions of this Declaration shall not be deemed affected or defeated by the exercise of any remedy provided in the Deed of Trust or by conveyance in lieu of foreclosure or otherwise and shall be binding upon and effective against any person or entity whose title to the Shopping Center or any part thereof is derived from the exercise of any such remedy or by conveyance in lieu of foreclosure or otherwise.

10.7 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of Paragraphs 2 and/or 6 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the non-defaulting Owner and/or its Permittees to suffer irreparable harm and such non-defaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of Paragraphs 2 and/or 6 of this Declaration, the non-defaulting Owner, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of Paragraphs 2 and/or 6 of this Declaration.

11. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the Ventura County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all the then record Owners of the Shopping Center in accordance with Paragraph 12.2 hereof.

12. Miscellaneous.

12.1 Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

12.2 Amendment. The parties agree that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of the

Declarant, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the Official Records.

12.3 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld, conditioned or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the paragraph hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner under this Declaration, to be effective, must be given, denied or conditioned expressly and in writing.

12.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

12.5 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

12.6 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

12.7 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

12.8 Separability. Each provision of this Declaration and the application thereof to the Shopping Center are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of the entire Shopping Center by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

12.9 Time of Essence. Time is of the essence of this Declaration.

12.10 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

12.11 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight

courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of the Declarant and the initial Owner are as follows:

**Declarant and
Initial Owner:**

Red Mountain Asset Fund III, LLC
c/o Red Mountain Retail Group, Inc.
1234 E. 17th Street
Santa Ana, CA 92701
Telephone: (714) 245-7400
Fax: (714) 245-7401
Attn: Asset Management
Email: jburns@rmrginc.com

12.12 Governing Law. The laws of the State of California shall govern the interpretation, validity, performance, and enforcement of this Declaration.

12.13 Estoppel Certificates. Each Owner, within thirty (30) days of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner with a certificate binding upon such Owner, stating: (a) to the best of such Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to this Declaration as of the date of such certificate.

12.14 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

12.15 Subordinate Covenants. Any Owner of a Parcel may record additional easements, covenants, conditions or restrictions applicable to such Owner's Parcel only, so long as the same are subordinate to and not in conflict with this Declaration or any lease of such Parcel, except as otherwise provided in any such lease.

12.16 Prescriptive Easements/Adverse Possession. No title, easement or use pertaining to the Shopping Center or any portion thereof may be established by prescription or adverse possession, the statute of limitations for such purposes being expressly hereby waived.

12.17 Owner's Right to Pass Through Costs. Nothing herein shall prohibit an Owner from charging its Permittees any costs which such Owner is required to incur hereunder, to the extent allowed in such Owner's lease or other written agreement with such Permittee.

12.18 Limitation of Liability. Any person or entity acquiring fee or leasehold title to a Parcel, or any portion thereof, shall be bound by this Declaration only as to the Parcel or portion of the Parcel acquired or possessed by such person or entity. In addition, such person or entity shall be bound by this Declaration only during the period such person or entity is the fee owner or tenant of such Parcel or portion of the Parcel; and, upon conveyance or transfer of the fee or leasehold interest, shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue after such person or entity acquires such fee or leasehold interest and prior to such conveyance or transfer by such person or entity.

Further, the liability of an Owner hereunder and any recourse against any Owner shall be limited solely and exclusively to an amount which is equal to the interest of such Owner in its Parcel(s) (provided the foregoing limitation shall not limit the extent to which an Owner's insurance policy(ies) are available to respond to any insured claim or loss thereunder).

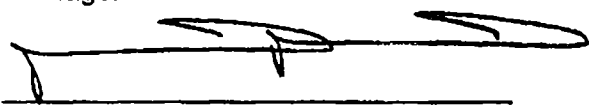
[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Declaration as of the date first written above.

DECLARANT

RED MOUNTAIN ASSET FUND III, LLC,
a Delaware limited liability company

By: RMAF III – Managing Member, LLC
a Delaware limited liability company,
Manager

By: 
Michael H. Mugel, Member

Civil Code § 1189

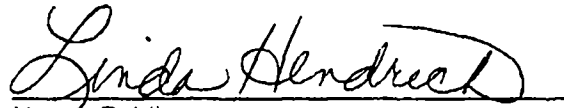
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

On August 30, 2016, before me, Linda Hendrich, Notary Public, personally appeared Michael H. Mugel who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public

(NOTARY SEAL)

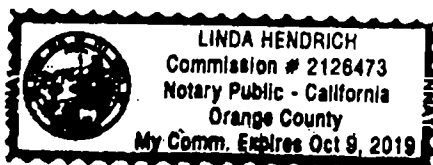


EXHIBIT "A"

LEGAL DESCRIPTION OF SHOPPING CENTER

All that certain real property situated in the County of Ventura, State of California, described as follows:

Parcel 1:

Being a portion of Subdivision 39 of the Rancho El Rio De Santa Clara O'La Colonia, in the City of Oxnard, County of Ventura, State of California, according to that certain Partition Map filed in the Office of the County Clerk of said County 1 that certain action entitled "Thomas A. Scott, et al., Plaintiffs vs. Rafael Gonzales, et al Defendants," described as follows:

Beginning at the Northwestern corner of that certain Parcel of land described as Parcel 1 in Book 3021, Page 221 of Official Records, at which a radial line of said point bears North 89°02'27" East, said Northwestern corner also being on the Easterly line of that Parcel of land described in Book 2879, Page 468 of Official Records; thence along said Easterly line of the land described in Book 2879, Page 468 the following four courses,

1st: Northwesternly 157.98 feet along a curve concave to the Southwest, having a radius of 1510.00 feet, a central angle of 5°59'40" and a tangent distance of 79.06 feet to the beginning of a reverse curve, thence,

2nd: Northwesternly 180.56 feet along a tangent curve concave to the Northeast, having a radius of 1490.00 feet, a central angle of 6°56'35" and a tangent distance of 90.39 feet; thence,

3rd: North 00°00'38" West 130.00 feet; thence,

4th: South 89°59'52" West 18.00 feet to a point in the Easterly line of Ventura Road (60 feet wide); thence along said Easterly line of Ventura Road,

5th: North 00°00'38" East 50.35 feet; thence,

6th: North 89°39'52" East 937.40 feet to a point distant South 89°59'52" West 30.00 feet from the Westerly line of Parcel B as shown on the map recorded in Book 2, Page 32 of Parcel Maps of said Ventura County; thence parallel to and 30.00 feet Westerly, measured at right angles, from the Westerly line of said Parcel B and Parcel A the following four courses,

7th: South 0°04'48" East 105.14 feet; thence, 8th: Southwesterly 173.97 feet along a tangent curve concave to the Northwest having a radius of 359.95 feet a central angle of 27°41'30" and a tangent distance of 88.72 feet; thence,

8th: Southwesterly 173.97 feet along a tangent curve concave to the Northwest having a radius of 359.95 feet a central angle of 27°41'30" and a tangent distance of 88.72 feet; thence,

9th: South 27°33'42" West 47.60 feet; thence,

10th: Southwesterly 342.98 feet along a tangent curve concave to the Southeast, having a radius of 818.25 feet, a central angle of 24°00'59" and a tangent distance of 174.05 feet at which a radial line of said curve bears North 86°24'17" West to the beginning of a reverse curve; thence,

11th: Southwesterly 37.70 feet along a tangent curve concave to the Northwest, having a radius of 25.00 feet a central angle of 86°24'09" and a tangent distance of 223.48 feet; thence,

12th: South 89°59'12" West 477.87 feet to a point in the Easterly line of Parcel A, as shown on the map recorded in Book 2, Page 31 of Parcel Maps, of said County; thence along the Easterly line of said Parcel A,

13th: North 0°00'08" West 158.00 feet to the Northeasterly corner of said Parcel A; thence along the Northerly line of said Parcel A and said Parcel 1 in Book 3021, Page 221 of Official Records,

14th: South 89°59'52" West 240.00 feet to the point of beginning.

Said land is also shown as Parcel 1, in Book 5, Page 64 of Parcel Maps.

Except all oil, oil rights, minerals, mineral rights, natural gas, natural gas rights, and other hydrocarbons by whatsoever name known that may be within or under said land, together with the perpetual right of drilling, mining, exploring and operating therefore and removing the same from said land, including the right to whipstock or directionally drill and mine from lands other than those herein described, oil or gas wells, tunnels and shafts into, through or across the subsurface of the land herein described and to bottom such whipstocked or directionally drilled wells, tunnels, and shafts under and beneath or beyond the exterior limits thereof and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines, without, however, the right to drill, mine, explore and operate on and through the surface or the upper 500 feet of the subsurface of said land, as reserved by Ignatius Friedrich, et al., in deed recorded February 20, 1969 as Instrument No. 8925, in Book 3446, Page 225 of Official Records.

Parcel 2:

A non-exclusive easement and right of way over and upon and across a portion of the following described property:

That portion of Subdivision 39 of the Rancho El Rio De Santa Clara O'La Colonia, in the City of Oxnard, County of Ventura, State of California, according to that certain map filed in the Office of the County Clerk of said County, in that certain action entitled "Thomas A. Scott et al., Plffs. Vs. Rafael Gonzales, et al., Defts", described as follows:

Beginning at the Easterly terminus of the 8th course recited as "East 25.00 feet" in that certain deed to the City of Oxnard, recorded October 14, 1965 as Instrument No. 74689, in Book 2879, Page 468 of Official Records; thence along the boundary of the land described in said deed by the following 4 courses, West 25.00 feet to the beginning of a tangent curve concave Northeasterly having a radius of 25.00 feet; thence Westerly, Northwesterly and Northerly along said curve through a central angle of 89°59'30" an arc distance of 39.27 feet; thence tangent to said curve, North 0°00'30" West 100.00 feet to the beginning of a tangent curve concave Westerly having a radius of 2510.00 feet; thence Northerly along said curve through a central angle of 0°56'55" an arc distance of 25.00 feet to the true point of beginning, a radial to said point bears North 89°02'35" East; thence East 25.00 feet; thence Southwesterly in a direct line to a point on last mentioned curve distant Southerly thereon 20.50 feet, measured along said last mentioned curve, from the true point of beginning, a radial to said point bears North 89°49'15" East; thence Northerly along said last mentioned curve through a central angle of 0°46'40" an arc distance of 20.50 feet to the true point of beginning, as set forth in an instrument recorded in Book 3021, Page 221 of Official Records.

EXHIBIT "B"

Site Plan

(see attached)

A detailed site plan of a shopping center. The plan shows several buildings with their respective square footages: PAD 1 (1,850 SF), EXISTING PAD 2 (2,500 SF), LA FITNESS (27,458 SF), SHOPS (2,300 SF), MART & RETAIL (5,000 SF), SHOP 5 (1,617 SF), STAFF WAREHOUSE (2,600 SF), SHOPS (14,342 SF), and EXISTING PAD 3 (10,692 SF). A large area on the left is labeled "Not a Part". The plan also includes an "OUTDOOR SALES AREA", a "SHOPPING CART AREA", and a "PYLON SIGN". The site is bounded by S. VENTURA ROAD to the north and S. RANCHO BLVD. to the east. A scale bar indicates distances up to 40 feet, and a north arrow is present in the bottom right corner.

SHOPPING CENTER BOUNDARY

8. VENTURA ROAD

Notapart

OUTDOOR SALES MEAS

14,342 SF

**STAR WOND
426034 SF**

BAUER & PAUL
+300000 SF**LA Fitness**
\$237,450 SF

14375

5/5/05

PAID
1,350 ST

DATE: 11/11/11
+2901 SF

**BOSTING AND
F106925F**

SITE PLAN

SHOPPING CART AREA

PYLON 5

0 40 80



EXHIBIT "C"

Prohibited Uses

Fitness International, LLC Exclusive

Declarant and Owners will not enter into any other leases or other occupancy agreements within the Shopping Center or consent to any other tenant or occupant within the Shopping Center (to the extent Declarant and/or Owners have the right to grant or withhold such consent pursuant to the applicable lease or occupancy agreement) with or permitting any other health club, fitness facility or any other fitness related operation (including, without limitation, a health club, aerobics, yoga, Pilates, dance studio offering fitness-oriented classes such as *Zumba*, spinning/cycling, circuit training, personal training, basketball, boxing, cardiovascular or jazzercise studios) within the Shopping Center (and Declarant and/or Owners will not amend this Declaration to permit such uses in the Shopping Center) or any land contiguous or adjacent to the Shopping Center now or hereafter owned, leased or occupied by Declarant and/or any Owners or any other entity directly or indirectly (through one or more intermediaries) controlled by, controlling or under common control with Declarant and/or any Owners, except the foregoing restriction (the "Exclusive Use Restriction") shall not be applicable to the existing Shopping Center leases with *Burger King*, *Fiji Buffet* and *Smart & Final Stores LLC* (each, an "Existing Tenant") or any direct assignees, subtenants, licensees or successors-in-interest under such leases, but only to the extent the lease of an Existing Tenant remains in full force and effect and does not prohibit the subject premises to be used in violation of the Exclusive Use Restriction (and if Declarant and/or any Owners have consent rights over a change in use under the lease of an Existing Tenant, Declarant and/or any Owners shall not consent to a change in use that will violate the Exclusive Use Restriction). The Exclusive Use Restriction shall not, however, preclude (a) Declarant or Owners from permitting another Shopping Center tenant to engage in the retail sale of fitness equipment for off-premises use or the operation of any of the Ancillary Uses (as defined in the Fitness Lease), (b) one (1) diet or weight loss center in the Shopping Center (such as *Weight Watchers* or *Jenny Craig*), or (c) one (1) first-class, fully-licensed business in the Shopping Center offering therapeutic massages (e.g., *Massage Envy*, *Massage Heights*) so long as such operation is at least one hundred fifty feet (150') from the premises identified on the Site Plan as "MAJOR A".

Fitness International, LLC Prohibited Uses

Without limiting the foregoing, and excluding the Existing Tenants (and their subtenants, successors-in-interest under the respective leases, and or assignees permitted by right and without any Owner consent under the terms of the applicable lease as of the date of this Declaration to operate the same use, but not the Existing Tenants' replacements except for a replacement restaurant in Pad 3 of the Shopping Center as identified on the Site Plan), the Shopping Center shall be constructed, leased, operated, maintained and managed as a first-rate retail center and that no premises (and no portion of any premises) in the Shopping Center shall be used or occupied for any of the following: any unlawful use; funeral establishment; used car lot; auction or bankruptcy sale (except those which are lawful and bona fide); pawn shop; thrift store; shooting gallery; refinery; adult bookstore, facility or establishment selling, renting, displaying or providing pornographic or adult-type activities or entertainment (including, without limitation, any displays of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts and adult-themed restaurants such as *Hooters*, *Tilted Kilt* and *Twin Peaks*), pornographic or adult books, magazines, literature, films, pictures, videotapes, video discs or other adult paraphernalia or merchandise of any kind (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for sale or rental to children under

18 years old because they explicitly deal with or depict human sexuality or nudity), provided that the sale, rental or display of such items as an incidental part of a permitted business (as used above, the term "incidental" means, with respect to any national or regional video store chain, any sale or rental of such materials and with respect to other tenants, the sale of such materials from not more than ten percent (10%) of the sales area of such business and so as to constitute less than ten percent (10%) of the gross sales of such business) shall be permitted; massage parlor, exempting one (1) first-class, fully-licensed business offering therapeutic massages (e.g., *Massage Envy*, *Massage Heights*) so long as such operation is at least one hundred fifty feet (150') from Major A as identified on the Site Plan; tattoo parlor/shop; unemployment agency; government uses open to the public; food stamp center; check cashing/pay day loan business (excluding banks); call center/phone bank; any school, training, educational or day care facility, including but not limited to: beauty schools, barber colleges, nursing schools, diet centers, real estate school including a real estate office that includes a school, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers such as tutoring of any grade/level of school/university for subjects/testing such as *Score* or *Mathnasium*; office (provided that up to 4,000 square feet of Shopping Center floor area in the aggregate may be used in Shops A as identified on the Site Plan for office and permitted medical office/clinic use); medical office/clinic (excluding any optometrist, ophthalmologist or dentist provided no more than 4,000 square feet of Shopping Center floor area in the aggregate may be used in Shops A as identified on the Site Plan for office and such permitted medical uses); "park and ride"; amusement park; any sports bar; dance hall; cocktail lounge or bar (unless incidental to a permitted restaurant), disco or night club; bingo or similar games of chance, but lottery tickets and other items commonly sold in retail establishments may be sold as an incidental part of business; second-hand store (provided, however, the foregoing restriction shall not prohibit antique shops or stores selling high quality used merchandise such as *Play It Again Sports* and *Game Stop*); auction house or flea market; or excluding the permitted restaurant locations specifically indicated on the Site Plan (with each permitted restaurant occupying no larger than 3,500 square feet of floor area), any buffet restaurant or full-service restaurant or fast casual restaurant with table service (provided, the foregoing restriction does not apply to counter service restaurants, quick service/fast food restaurants or fast casual restaurants without table service, but provided further that no more than 3,750 square feet of Shopping Center floor area in the aggregate may be used in Shops B and C as identified on the Site Plan for counter service restaurants, quick service/fast food restaurants or fast casual restaurants without table service). To the extent any portion of the Shopping Center is within the control of a third-party (through lease, ground lease or fee-conveyed parcel), Declarant will use its best efforts to cause such third-party to maintain the foregoing quality of the Shopping Center.

Smart & Final Stores LLC Exclusive

Smart & Final Stores LLC shall have, throughout the term of its lease and any extensions thereof (the "Smart & Final Lease"), the exclusive right to sell meat, produce, groceries and restaurant and janitorial supplies, and to operate a grocery store, a meat or seafood market, a produce market or an ethnic food store, or a business selling restaurant supplies, restaurant equipment and/or cleaning and janitorial supplies, within the Shopping Center ("Grocery Exclusive"); provided, however, that the Grocery Exclusive shall not prohibit any Owners from leasing to or allowing the following uses within the Shopping Center: (i) a drug store, or (ii) a convenience store of up to 3,000 square feet of Leasable Area (as defined in the Smart & Final Lease). However, notwithstanding the foregoing, Fuji Buffet and Burger King are identified as existing tenants and are not subject to the Grocery Exclusive, provided, however, that this sentence shall not apply if (a) Owner permits or agrees to an expansion of the premises for any

such permitted use which violates the Grocery Exclusive, or (b) an Owner permits or agrees to the change of a permitted use by any such tenant or its successors or assigns, which such Owner could prohibit under such existing lease, or (c) an Owner permits or agrees to an assignment or sublease of such existing lease if such Owner could avoid the granting of such permission, or (d) an Owner has the right, by virtue of the provisions of the existing lease, to cause said tenant to honor the exclusive granted to Tenant by giving said existing tenant notice of this exclusive or otherwise. Notwithstanding the foregoing, nothing herein shall be construed to prohibit (x) a tenant of the Shopping Center from selling the exclusive items listed above, provided such items are "incidental" to such tenant's business; for the purpose of the Grocery Exclusive, "incidental" shall be defined as less than or equal to ten percent (10%) of such tenant's gross sales, or (y) a bakery, ice cream store, frozen yogurt store, candy store, pie shop, donut shop, bagel shop, prepared food operation (such as a take-out fried chicken or fish operation), selling prepared foods for off-premises consumption, delicatessen, restaurant (including sandwich shop), or stationery store, and for the sale of any items customarily carried by any of the foregoing. Further, the Grocery Exclusive shall terminate if the Premises (as defined in the Smart & Final Lease) are not used for the operation of a supermarket or grocery store for a continuous period of one (1) year unless because of an Uncontrollable Event (as defined in the Smart & Final Lease).

Smart & Final Stores LLC Prohibited Uses

1. funeral establishment;
2. automobile sale, leasing, repair or display establishment or used car lot, including body repair facilities;
3. pawn shop;
4. outdoor circus, carnival or amusement park, or other entertainment facility;
5. outdoor meetings;
6. bowling alley;
7. primarily pool or billiard establishment;
8. shooting gallery;
9. off-track betting (provided that state sponsored lottery tickets shall not be prohibited);
10. refinery;
11. adult bookstore or facility selling or displaying pornographic books, literature, or videotapes (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality), massage parlor
12. any residential use, including but not limited to living quarters, sleeping apartments or lodging rooms;
13. theater;
14. auditorium, meeting hall, ballroom, school or training facility (except tutoring facilities and educational or training facilities incidental to an otherwise permitted use are allowed, provided such facilities are located within the building identified as Shops A on the Site Plan, as it may be modified as allowed by the Lease) and/or other place of public assembly;
15. unemployment agency, service or commission;
16. gymnasium, health club, exercise or dance studio (except within the area identified on the Site Plan as LA Fitness or another fitness facility (the "Fitness Facility Area") provided the Fitness Facility Area maintains either: (a) two separate entrances one on Ventura Rd and one on Channel Islands Blvd or (b) one entrance on the southwest corner of the Fitness Facility Area;
17. dance hall (except group exercise classes including dance shall be permitted within the Fitness Facility Area);

18. cocktail lounge, bar, disco or night club (except as an incidental part of a bona fide restaurant);
19. bingo or similar games of chance (except that lottery tickets and other gaming items commonly sold as incidental items in retail establishments are acceptable);
20. video games (except as an incidental part of a business or in connection with businesses such as Game Stop) or an amusement arcade (except as an incidental part of a business otherwise allowed);
21. skating or roller rink;
22. car wash, car repair or car rental agency;
23. second hand store, auction house, or flea market;
24. restaurants except as follows: (i) up to 10,000 Leasable Square Feet within the area identified approximately as Shops A on the Site Plan, as it may be modified as allowed by the Lease; (ii) within the area identified approximately as Pad 1, Pad 2 and Pad 3 on the Site Plan; (iii) within the area identified approximately as Shops B on the Site Plan; and (iv) up to 3,000 Leasable Square Feet within the area identified approximately as Shops C on the Site Plan; or
25. non-retail use (which shall not prohibit in the Shopping Center such uses commonly found in shopping centers, sometimes referred to as "quasi-retail" or "service retail," such as a travel agency, real estate office, insurance agency, accounting or other professional services, medical, dental, chiropractic, optometrist, bank, savings and loan, credit union, escrow office, etc., so long as same do not exceed ten percent (10%) of the Leasable Square Feet of the Shopping Center).

Star World, Inc. Exclusive

Declarant and Owners shall not lease or sell space in (nor approve of any use where Declarant or Owners have the right to approve use) that provides the right, for another tenant utilizing 500 square feet or more for the retail sale of small and large audio, video, electronics, furniture, appliances and cosmetics. Notwithstanding anything herein to the contrary, the foregoing shall not apply to any leases existing as of the effective date of the Star World, Inc. lease, including extensions and/or renewals thereof pursuant to the terms of such existing leases, and including assignments and subleases thereunder.

Declarant and Owners shall not lease or sell space in the Shopping Center (or approve of any use where Declarant and/or any Owner has the right to approve use, so long as withholding approval would not cause Declarant and/or any Owner to be in default under any other agreement) that allows the shop space to the east of the premises occupied by Star World, Inc. to be used as a convenience store.

Nothing in this section shall prevent Declarant and/or Owner from leasing or selling any portion of the Shopping Center for use as a cell phone store.

Recording Requested By:
First American Title Insurance Company
National Commercial Services
777 S. Figueroa Street, 4th Floor
Los Angeles, CA 90017
File No: NCS 880819

Cyningo

20180302-00024727-0 1/5
Ventura County Clerk and Recorder
MARK A. LUNN
03/02/2018 08:00:00 AM
1309961 \$101.00 RE

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
Lee Ann Hilliker
c/o Red Mountain Retail Group, Inc.
1234 East 17th Street
Santa Ana, CA 92701

Electronically Recorded in Official Records,
County of Ventura

(Space Above This Line For Recorder's Use)

**FIRST AMENDMENT TO
DECLARATION OF RECIPROCAL EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS FIRST AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("First Amendment") is entered into as of this 26 day of February 2018, by RED MOUNTAIN ASSET FUND III, LLC, a Delaware limited liability company ("Declarant"). This First Amendment shall be operative as of the date of its first recording in the Official Records of Ventura County, California (the "Official Records"), and is made with reference to the following facts:

A. Declarant is a party to that certain Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions (the "Original Declaration") dated July 31, 2016, and recorded on September 8, 2016, as Instrument No. 20160908-00129534-0, in the Official Records.

B. Declarant wishes to amend the Declaration as provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby agrees as follows:

1. All capitalized terms used herein shall have the meanings set forth in the Declaration unless expressly re-defined herein.

2. The Declaration is hereby modified by the deletion of Paragraph 3.3 thereof and the substitution of the following in its place:

"3.3 Parking Restrictions. So long as the Fitness Lease is still in effect, in no event shall Common Area parking contain less than four (4) parking spaces for each one thousand (1,000) square feet of floor area in the Shopping Center. The area of a "Playland" associated with a fast food restaurant shall not be counted for purposes of satisfying parking ratios, if it is attached or in close proximity to the restaurant building. Except as required to comply with any laws, statutes, ordinances, rules, regulations or orders of governmental authorities now or hereafter in effect, and except as expressly permitted in this Declaration, there shall be no changes in the grade elevations in the parking areas on each Parcel of the Shopping Center without the prior written consent of Declarant."

3. The Declaration is hereby modified by the deletion of the second sentence of Paragraph 4.2 thereof and replacing it with the following:

"Common Area Expenses are a continuing lien and assessment against the Parcels, and will be assessed against each Owner and its respective Parcel in the same proportion as the leasable building area on such Owner's Parcel as compared to the total leasable building area at the Shopping Center. The term "leasable building area" as used herein shall mean the actual ground floor square footage of any buildings, exclusive of any mezzanine areas, and any patios or other outdoor seating areas, regardless of whether such areas are built out, rented or occupied. Such measurement shall be performed pursuant to ANSI/BOMA Z65.5-2010 Standard Methods of Measurement (Retail Buildings) (Exterior Gross Area) with all occupant voids being deducted in the calculation. Except as set forth above, such square

footage shall not include any arcades, pop-outs, bump-outs, stairs, staircases, passageways, shafts, leave-outs, and other architectural elements, areas used for truck parking, exterior loading or unloading, trash storage or sidewalks."

4. The Declaration is hereby further modified by changing the references to "land area" in Paragraph 4.2 and Paragraph 4.8 to "leasable building area."

5. The Declaration is hereby further modified by adding the following as Section 12.19:

12.19 Lease Compliance. For so long as the Fitness Lease and/or the Smart and Final Lease are in effect, Declarant shall not consent to any alteration of the Common Area that would violate either Lease then in effect.

6. The Declaration is hereby further modified by adding the following as Section 13:

13. Party Wall Agreement.

(a) Each Owner of a Parcel with a building (or buildings) containing walls that are shared with another building (or buildings) in the Shopping Center, as a common wall for support and enclosure (the "Common Wall"), grants to the other Owner(s) a non-exclusive easement and right to use the existing wall between the buildings.

(b) Each such Owner grants to the other Owner(s) the right to inspect the condition of the Common Wall, as set forth below, and such easements as are reasonably necessary to assure proper maintenance thereof. Each Owner shall maintain their respective portion of the Common Wall in good condition and repair. Each such Owner shall cooperate with each other in fulfilling the above obligations and each shall diligently complete any required maintenance, repair and/or restoration. All maintenance, repair and restoration shall be in a good and workmanlike manner in accordance with construction industry standards in the Oxnard, California metropolitan area. Each such Owner shall have the right to enter onto the other Owner's property as reasonably necessary upon reasonable notice and without interference to maintain, repair or restore the Common Wall. Each such Owner shall protect, indemnify, defend and save the other party harmless from and against any and all claims, actions, damages, suits, judgments, liabilities and expenses, including attorneys' fees, in connection with any accident, loss of life, personal injury and/or damage arising out of the performance of the above maintenance, repair or restoration obligations of that Owner, unless the same shall be caused by the gross negligence or willful misconduct of the other Owner, its employees, agents, invitees, contractors or servants. If any maintenance and/or repairs are necessary to be completed to the Common Wall which mutually benefit both Owners, the cost of such repairs and/or maintenance shall be shared 50%/50% by both Owners. If the parties cannot agree that such maintenance and/or repairs mutually benefit both parties, the parties shall engage a structural engineer to confirm such fact. If one of the Owners pays the entire cost of any maintenance and/or repairs which are to be shared equally by both parties, the Owner which did not pay its 50% share shall reimburse the other party within thirty (30) days after receipt of an invoice for its 50% share of such costs. Notwithstanding anything set forth herein to the contrary, if either Owner, or such party's employees or invitees, damages the Common Wall by any intentional or negligent act or omission, such party shall be required to repair the Common Wall in a diligent and timely manner and shall be responsible for 100% of the cost of such repairs necessary to fix the Common Wall even though such repairs will mutually benefit both parties.

(c) In the event of substantial damage to or destruction of the Common Wall through no fault of either Owner or their employees or invitees, the parties shall proceed with due diligence and good faith to repair the Common Wall. In such event, the Owners shall share in the costs and expenses incurred in connection with such repair on a 50%/50% basis. If one of the Owners pays the entire cost of any maintenance and/or repairs which are to be shared equally by both parties, the Owner which did not pay its 50% share shall reimburse the other Owner within thirty (30) days after receipt of an invoice its 50% share of such invoice.

7. Miscellaneous. In the event of a conflict between the provisions of this First Amendment and those of the Declaration, the provisions of this First Amendment shall control. This First Amendment shall be binding upon and inure to the benefit of each Owner under the Declaration and its heirs, personal representatives, successors and assigns, and shall run with the land and be binding upon the Shopping Center.

Except as provided herein, the Declaration shall remain in full force and effect and is hereby ratified and affirmed.

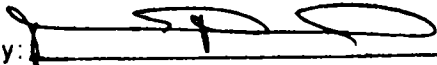
Signature Page Follows

IN WITNESS WHEREOF, this First Amendment has been executed as of the date first set forth above.

DECLARANT:

**RED MOUNTAIN ASSET FUND III, LLC,
a Delaware limited liability company**

**By: RMAF III-Managing Member, LLC, a
Delaware limited liability company, Manager**

By: 
Michael H. Mugel, Member

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On February 26, 2018 before me, Kelly My-Dung Duprat, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Michael H. Mugel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Declaration of reciprocal interest Document Date: _____
Number of Pages: 5 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Michael H. Mugel
☒ Corporate Officer — Title(s): Member
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Red Mountain Asset Fund III, LLC

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Recording Requested By:
First American Title Insurance Company
National Commercial Services
777 S. Figueroa Street, 4th Floor
Los Angeles, CA 90017
File No: NCS

Recording Requested By SYNARGO

RECORDING REQUESTED BY:

WHEN RECORDED MAIL DOCUMENT TO:

Freeman, Freeman & Smiley, LLP
1888 Century Park East, Suite 1900
Los Angeles, Ca 90067
Attn: Glenn T. Sherman, Esq.

20180309-00027745-0 1/7
Ventura County Clerk and Recorder
MARK A. LUNN
03/09/2018 10:37:02 AM
1312780 \$32.00 VA

Electronically Recorded in Official Records,
County of Ventura

Space Above This Line for Recorder's Use Only

A.P.N.: 205-0-020-455, 465, 475

File No.: 880819

**SECOND AMENDMENT TO DECLARATION OF
RECIPROCAL EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

(Please fill in document title(s) on this line)

(X) Exempt from fee under GC 27388.1 due to being recorded in connection with a concurrent transfer that is subject to the imposition of documentary transfer tax, or

Exempt from fee under GC 27388.1 due to the maximum fees being paid on documents in this transaction, or

() Exempt from fee under GC 27388.1 due to being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier, or

Exempt from fee under GC 27388.1 (a) (1); Not related to real property, or,

() Exempt from fee under GC 27388.1 for the following reasons:

NOTE: The following exemptions may not be acceptable for use in all counties:


() Exempt from fee under GC 27388.1 due to being recorded in connection with a transaction that was subject to documentary transfer tax which was paid on document recorded _____ as Document No. _____ of Official Records, or

() Exempt from fee under GC 27388.1 due to the maximum fees having been paid on document(s) recorded _____ as Document No. _____ of Official Records, or

() Exempt from fee under GC 27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded _____ as Document No. _____ of Official Records.

THIS PAGE ADDED TO PROVIDE EXEMPTION INFORMATION FOR THE BUILDING HOMES AND JOBS ACT FEE
(SB-2; AFFORDABLE HOUSING FEE)
(Additional recording fee applies)

I hereby declare under penalty of perjury that the information provided above is true and correct.

 Signature

Recording Requested By:
First American Title Insurance Company
National Commercial Services
777 S. Figueroa Street, 4th Floor
Los Angeles, CA 90017
File No: NCS 880819

RECORDING REQUESTED BY:
AND WHEN RECORDED MAIL TO:
Freeman, Freeman & Smiley, LLP
1888 Century Park East, Suite 1900
Los Angeles, CA 90067
Attention: Glenn T. Sherman, Esq.

(Space Above This Line For Recorder's Use)

**SECOND AMENDMENT TO
DECLARATION OF RECIPROCAL EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS SECOND AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("Second Amendment") is entered into as of this 7 day of March, 2018, by RED MOUNTAIN ASSET FUND III, LLC, a Delaware limited liability company ("Declarant"). This Second Amendment shall be operative as of the date of its first recording in the Official Records of Ventura County, California (the "Official Records"), and is made with reference to the following facts:

A. Declarant is a party to that certain Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions dated July 31, 2016, and recorded on September 8, 2016, as Instrument No. 20160908-00129534-0, in the Official Records, as amended by that certain First Amendment to Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions entered into by Declarant on February 26, 2018 and recorded March 2, 2018 as Instrument No. 20180302-000242, in the official records (the "Declaration").

B. Declarant wishes to amend the Declaration as provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby agrees as follows:

1. All capitalized terms used herein shall have the meanings set forth in the Declaration unless expressly re-defined herein.

2. Notwithstanding anything to the contrary in the Declaration, Declarant shall not approve any reconfiguration of the Common Areas marked on the attached Exhibit A (the "**Restricted Area**"). it being the intent hereunder that in no event shall the parking spaces available as set forth on Exhibit A be reduced or reconfigured.


3. As part of the development of the Shopping Center, Declarant is completing certain punch-list items as shown on the attached Exhibit B (the "**C/O Work**"), which is the only outstanding requirement in order for the City of Oxnard to issue permanent certificates of occupancy for the space occupied by each of the Fitness Tenant and the tenant under the Smart and Final Lease (the "**Grocery Tenant**" and together with the Fitness Tenant, the "**Tenants**"). In the event Declarant does not complete the C/O Work on or before June 1, 2018, then any of (i) the Owner of Lot 3 of Tract 5974 or of Lot 4 of Tract 5974 as per map recorded in book 166 pages 14 to 17 inclusive of maps in the Official Records (the "**Lot 3/4 Owner**"), (ii) either of the Tenants, or (iii) any first lien holder of the Parcel owned by Lot 3/4 Owner shall have the right to complete the C/O Work. Any expense incurred by the Lot 3/4 Owner on its own behalf or on behalf of either of the Tenants or incurred by any of the parties in the immediately foregoing sentence shall be reimbursed by Declarant upon demand. Furthermore, Declarant hereby indemnifies, defends and holds harmless Lot 3/4 Owner (together with any first lienholder as to the Parcel owned by the Lot 3/4 Owner from and against any and all claims, demands, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) it may suffer or incur as a result of Declarant's failure to timely cause the issuance of the permanent certificate of occupancy in accordance with the terms of this Agreement.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the date first set forth above.

DECLARANT:

RED MOUNTAIN ASSET FUND III, LLC,
a Delaware limited liability company

By: RMAF III-Managing Member, LLC, a
Delaware limited liability company, Manager

By: 
Michael H. Mugel, Member

Civil Code § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2018, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

See attached certificate

Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Orange)On March 7, 2018 before me, Linda Hendrich, notary public
Date Here Insert Name and Title of the Officerpersonally appeared Michael H Mugel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Linda Hendrich
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

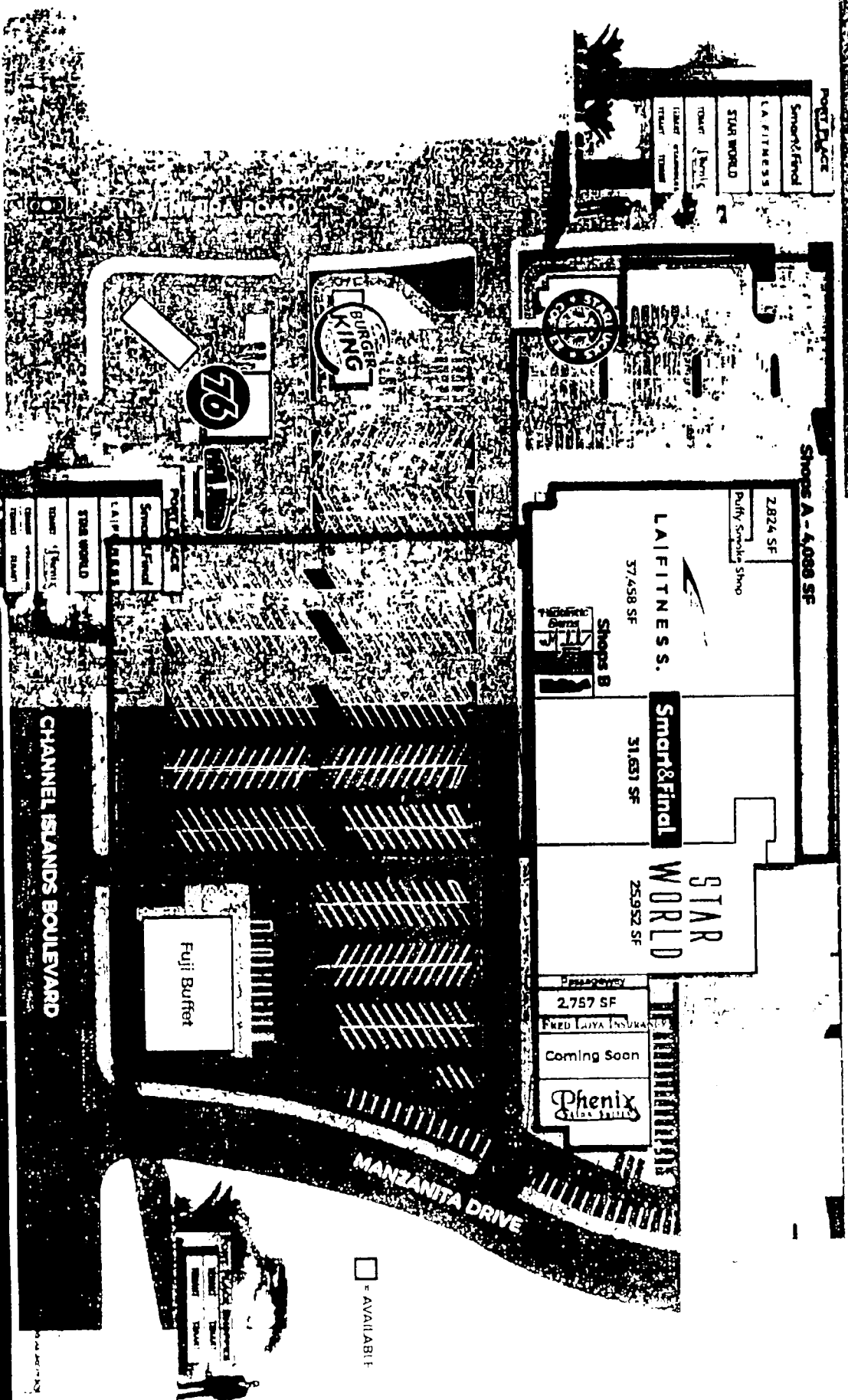
Signer Is Representing: _____

Exhibit A

Restricted Area

[See Attached]

STEEPLEYAN



Oxnard Port Place Shoppes
 1345 W. Channel Islands Boulevard
 Oxnard, California

For more information:
 Brenda Benter
 714-460-1500
 bbenter@rmginc.com

RED MOUNTAIN GROUP
 1234 E. 17th Street
 Santa Ana, California 92701
 www.redmountainrealestategroup.com

Exhibit B

C/O Work

- Landscape modification on Manzanita Dr.
- HVAC roof screens

Recording Requested By SYNARGO

FATCO

RECORDING REQUESTED BY
AND WHEN RECORDED MAILTO:
Red Mountain Asset Fund III, LLC
c/o Red Mountain Retail Group, Inc.
1234 East 17th Street
Santa Ana, CA 92701

20181116-00128458-0 1/9
Ventura County Clerk and Recorder
MARK A. LUNN
11/16/2018 08:00:00 AM
1404450 \$113.00 CO

Electronically Recorded in Official Records,
County of Ventura

02182-3245 ACCM

(Space Above This Line For Recorder's Use)

THIRD AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND RECIPROCAL EASEMENTS

THIS THIRD AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("Third Amendment") is entered into as of this 21st day of September 2018, by RED MOUNTAIN ASSET FUND III, LLC, a Delaware limited liability company ("Declarant"). This Third Amendment shall be operative as of the date of its first recording in the Official Records of Ventura County, California (the "Official Records"), and is made with reference to the following facts:

A. Declarant is a party to that certain Declaration of Covenants, Conditions, Restrictions, and Reciprocal Easements dated July 31, 2016, and recorded on September 8, 2016, as Instrument No. 20160908-00129534-0 in the Official Records, as amended by that certain First Amendment to Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions dated February 26, 2018, and recorded March 2, 2018, as Instrument No. 20180302-000242 in the Official Records, as amended by that certain Second Amendment to Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions dated March 7, 2018, and recorded on March 9, 2018 as Instrument No. 20180309-00027745-0 in the Official Records (collectively, the "Declaration")

B. Declarant wishes to amend the Declaration as provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby agrees as follows:

1. All capitalized terms used herein shall have the meanings set forth in the Declaration unless expressly re-defined herein.

2. Exhibit B. Exhibit B to the Declaration is hereby deleted in its entirety and replaced with Exhibit B attached hereto.

3. Consent of Use. Notwithstanding anything to the contrary in the Declaration, Fitness International, LLC, a California limited liability company, hereby provides consent to Declarant to use a portion of the Shopping Center described in Exhibit C attached hereto, to provide dental and health care services based on the terms set forth in Exhibit C.

4. Miscellaneous. In the event of a conflict between the provisions of this Third Amendment and those of the Declaration, the provisions of this Third Amendment shall control. This Third Amendment shall be binding upon and inure to the benefit of each Owner under the Declaration and its heirs, personal representatives, successors and assigns, and shall run with the land and be binding upon the Shopping Center. Except as provided herein, the Declaration shall remain in full force and effect and is hereby ratified and affirmed.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

THIS INSTRUMENT FILED FOR RECORD BY FIRST AMERICAN
TITLE INSURANCE COMPANY AS AN ACCOMMODATION ONLY.
IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION OR AS
TO ITS EFFECT UPON TITLE.

IN WITNESS WHEREOF, this Third Amendment has been executed as of the date first set forth above.

DECLARANT:

RED MOUNTAIN ASSET FUND III, LLC,
a Delaware limited liability company

By: RMAF III-Managing Member, LLC, a
Delaware limited liability company, Manager

By: [Signature]
Michael H. Mugel, Member

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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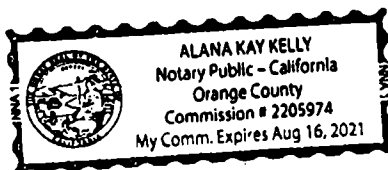
STATE OF CALIFORNIA)

County of Orange)

On September 26 2018, before me, Alana Kay Kelly Notary Public, personally appeared Michael H. Mugel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]

My commission expires: 8-16-21

ACKNOWLEDGED AND APPROVED BY OWNERS (OTHER THAN DECLARANT):

Channel, Oxn LLC,
a Delaware limited liability company,

By: Shalyse Kendrick
~~Zul Azman Amat, President~~
Shalyse Kendrick, COO

CFM Properties Management, LLC,
a California limited liability company,

By: _____

Dan Ashoori, Member

By: _____
Michael Aminpour, Member

By: _____
Jack Farshi, Member

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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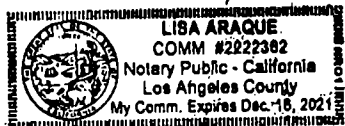
STATE OF CALIFORNIA)

County of Los Angeles)

On 11-9, 2018, before me, Lisa Araque Notary Public, personally appeared Shalyse Kendrick, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

My commission expires: 12-16-21

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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STATE OF CALIFORNIA)

County of Los Angeles)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

My commission expires: 12-16-21

ACKNOWLEDGED AND APPROVED BY OWNERS (OTHER THAN DECLARANT):

Channel, Oxn LLC,
a Delaware limited liability company,

By: _____
Zul Azman Amat, President

CFM Properties Management, LLC,
a California limited liability company,

By: _____
Dan Ashoori, Member

By: _____
Michael Aminpour, Member

By: _____
Jack Farshi, Member

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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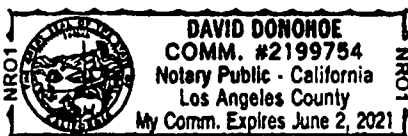
STATE OF CALIFORNIA)

County of Los Angeles)

On 10-25, 2018, before me, DAVID DONOHUE Notary Public, personally appeared MICHAEL AMINPOUR, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature David DonohueMy commission expires: June 2, 2021

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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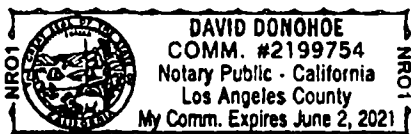
STATE OF CALIFORNIA)

County of Los Angeles)

On 10-25, 2018, before me, DAVID DONOHUE Notary Public, personally appeared DAN ASHOURI, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature David DonohueMy commission expires: June 2, 2021

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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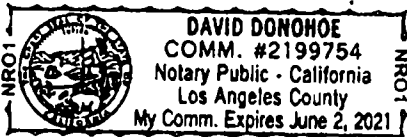
STATE OF CALIFORNIA)

County of Los Angeles)

On 10-25, 2018, before me, DAVID DONOHUE Notary Public, personally appeared JACK FARSHI, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

My commission expires: June 2, 2021

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

County of _____)

On _____, 20____, before me, _____ Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

My commission expires: _____

EXHIBIT B
SITE PLAN

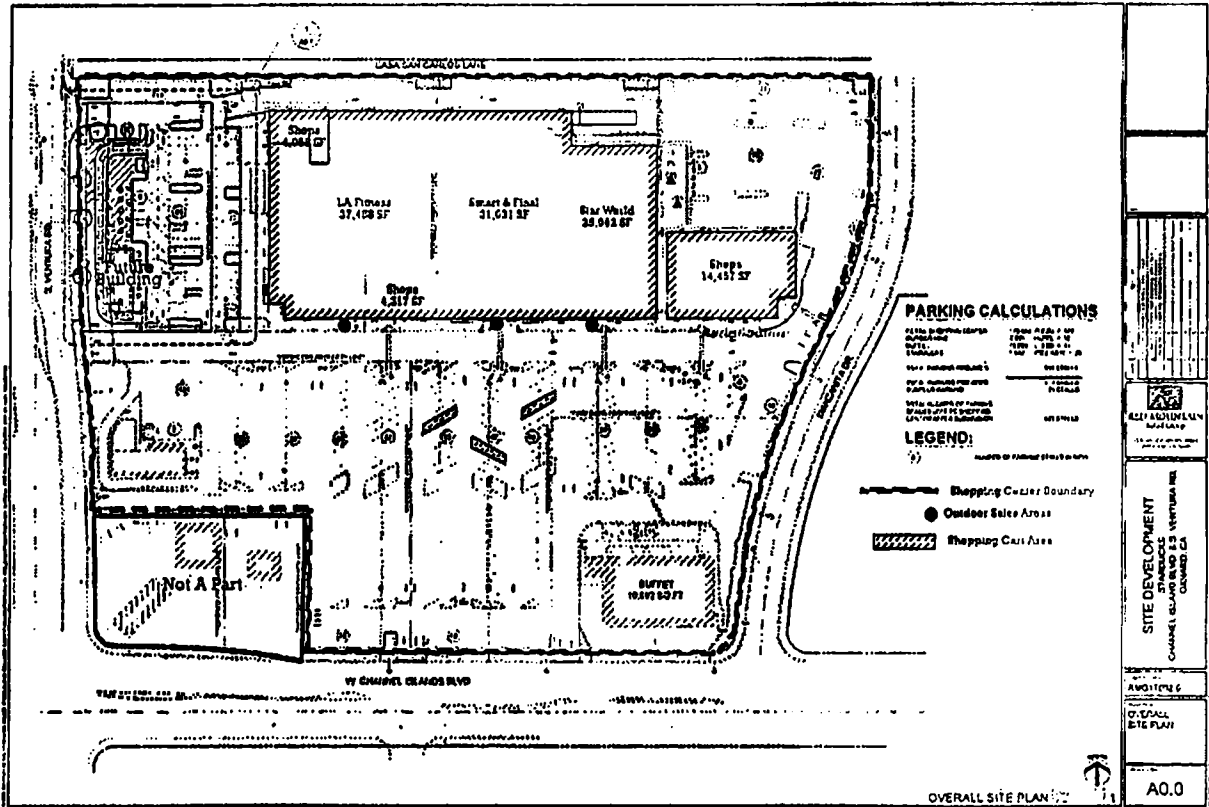


EXHIBIT C
CONSENT OF DENTAL USE

Fitness International, LLC ("Fitness") has evaluated the information provided by Declarant and Fitness will consent to the occupancy of Pacific Dental Services (hereinafter referred to as "PDS"), conditioned upon the following:

- Fitness' consent shall be effective only as long PDS, its permitted successors or assigns, or another dental operator (provided that such new operator does not increase the capacity of the business as previously operated by PDS) (collectively, the "PDS Entities") continues to operate the Permitted Dental Use (as hereinafter defined) under such trade name (or other trade name as approved by Declarant) in the space indicated on the site plan attached below containing approximately 4,088 square feet;
- The lease with PDS (the "PDS Lease") shall include a permitted use clause which permits PDS to provide dental and oral health care services, including, general dentistry, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics and any other dental specialties recognized by the American Dental Association (the "Permitted Dental Use"). For the avoidance of doubt, the foregoing shall not authorize PDS to offer any of the Primary Uses (as defined in the Retail Lease dated as of July 21, 2015, by and between Channel OXN, LLC (successor-in-interest to Red Mountain Retail Group Inc.) and Fitness (the "LAF Lease")) or to otherwise violate the Exclusive Use Restriction as defined in the LAF Lease;
- Declarant shall install the signage depicted on the below site plan;
- Declarant shall cause the employees of PDS to park in the area indicated as "PDS Employee Parking Area" on the below site plan; and
- The PDS Lease shall include a provision which prohibits PDS from soliciting business within the Common Areas of the Shopping Center.

In the event of a violation of the foregoing restrictions by Declarant or any of the PDS Entities, Fitness shall have the rights and remedies afforded it as a Permittee under Section 10 of the Declaration.

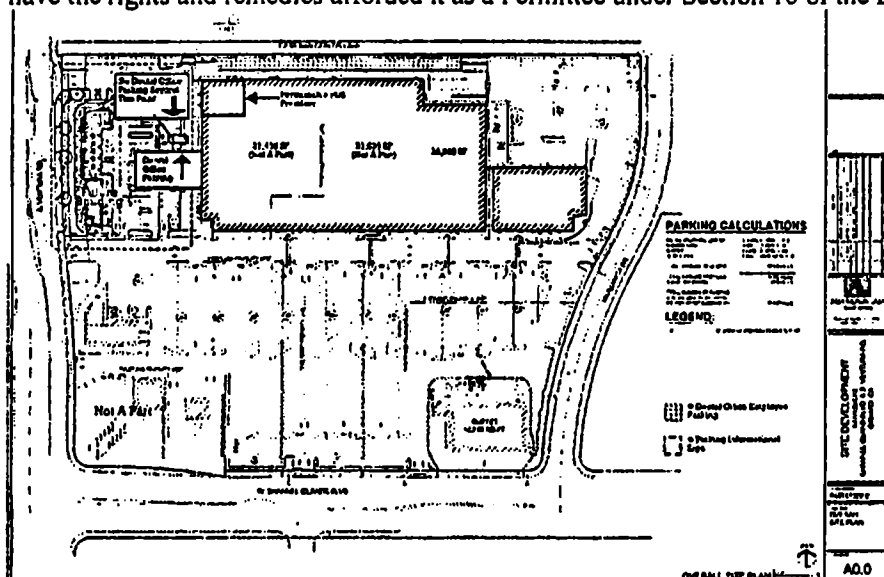


EXHIBIT “2”

AN OFFICE OF
RICHARD L. SEIDE

A PROFESSIONAL CORPORATION

901 DOVE STREET, SUITE 120

NEWPORT BEACH, CALIFORNIA 92660-3018

TEL 949 474 8700

FAX 949 474 0030

E-MAIL rls@rlsejlaw.com

Website: rlsejlaw.com

GLENN S. DRESSER

OF COUNSEL

RONALD K. BROWN, JR.

ASSOCIATE

August 17, 2020

VIA FEDERAL EXPRESS

CHANNFL OXN, LLC
1160 E. Mariposa Avenue
El Segundo, CA 90245
Attention: Shalyse Kendrick

Re. **NOTICE OF DEFAULT**
CHANNEL OXN, LLC ("Parcel Owner")
1341-1361 W. Channel Islands Blvd., Oxnard, CA ("Property")
Declaration of Reciprocal Easements, Covenants, Conditions
And Restrictions dated July 31, 2016, as amended ("Declaration")
Our File No. PSPP-001

Dear Ms. Kendrick:

I represent the Maintenance Owner under the Declaration for the Property, as referenced above. Parcel Owner is currently in default of its common area expense obligations in the sum of \$89,001.49 through August 31, 2020 under the provisions of Section 4 of the Declaration.

Please allow this letter to serve as the required thirty (30) day notice of default pursuant to Section 10.2 of the Declaration.

If Parcel Owner does not cure the default by paying the sum of \$89,001.49 to Maintenance Owner within thirty (30) days of the date that this notice is deemed given pursuant to Section 12.11 of the Declaration, then Parcel Owner will be in default of the Declaration and the Maintenance Owner will proceed as permitted under the provisions of the Declaration including, but not limited to, recordation of a lien on Parcel Owner's parcel of real property.

RICHARD L. SEIDE, APC

August 17, 2020
Page 2

The Maintenance Owner reserves all of its rights, claims and remedies under the Declaration and California law.

Very truly yours,

RICHARD L. SEIDE, APC



RICHARD L. SEIDE

RLS:cc

cc: Client - via email

..